SENATE—*Friday, June 10, 1983*

(Legislative day of Monday, June 6, 1983)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

God of Grace and Mercy, in a society where many are starved for love, in which many suffer and some die from acute loneliness, help us to recover love. Forgive us for cheapening love by reducing it to sentimentalism or sex. Help us to comprehend real love—selfless love—tough love which does not collapse when rejected or mistreated. Help us to remember a man on a cross who prayed for forgiveness for those who put Him there while they taunted Him in His agony.

Gracious God, teach us true love which respects the value of each human being, honors each one's personal dignity, desires the very best for each. Help us to be sensitive to those who hurt, compassionate to those who suffer, responsive to those in need. Teach us to care—to be courteous—to be thoughtful—to be kindly affectioned one to another. This we ask in the name of Him whose sacrificial love was universal, embracing all people, everywhere. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SENATE SCHEDULE

Mr. BAKER. Mr. President, I remind Members that today at 12 noon it is the intent of the leadership on this side to propound a unanimous-consent request that only listed amendments, a list which will be compiled between now and 12 noon, will be in order to the supplemental appropriations bill. This is consistent with the statements I have made for several days now, that we must try to finish this measure, as soon as possible. I will remind Senators that any votes ordered today will occur on Tuesday.

It is possible to get through with the amendment process by unanimous consent. At 12 noon, it is my intention to ask unanimous consent that no further amendments other than those identified at that time will be in order. As of this moment, there are 12 amendments on my list.

Mr. STENNIS. Mr. President, if the Senator will yield, I just heard again his announcement that he is going to ask unanimous consent with reference to amendments. I commend him. As one of the managers of the bill, I thank him, too. That is the only way to get at this. We have made tremendous headway already. We might be able to get this bill finished up and passed by Tuesday.

Mr. BAKER. Mr. President, I thank the Senator. There is not another person in this Chamber at this time, with the possible exception of the distinguished occupant of the Chair, who understands the importance of the Senate doing its work. I thank him for that. I appreciate his understanding. There are some not as familiar with the Senate as an institution who will challenge me in asking for that ruling when I make that request. As he points out, there is no other way to finally end major debates. I thank the Senator for his understanding and volunteering his statement.

Mr. STENNIS. The membership, as they come along, will gradually see the necessity for this.

Mr. BAKER. I thank the Senator from Mississippi.

GUN FIRES CHICKENS AT PLANES

Mr. BAKER. Mr. President, yesterday, while browsing through the New York Times, I came upon a story of major significance that I would now like to share with my colleagues. I am hopeful that this story is as comforting to them as it was to me. The story stated the following:

GUN FIRES CHICKENS AT PLANES

LANGLEY, VA., June 8.—Officials at Langley Air Force Base said today that a cannon that hurls dead chickens at airplanes at 700 miles an hour is helping to reduce accidents caused by jets hitting birds. Maj. Dennis Funnemark said the device, called a chicken gun, was a converted 20-foot cannon that shoots 4-pound chickens into engines, windshields and landing gear to determine how much damage such collisions can cause.

Mr. President, I must admit that my first reaction to this story was one of bitterness. I wondered why a special classified briefing had not been set up for Members of Congress on the new chicken gun, and I wondered if Secretary of Defense Weinberger was planning one. I was also surprised that the New York Times decided to run this story on the bottom of page A24, since this newest strategic development speaks directly to our Nation's safety, and might even change the focus of the defense budget debate.

I am sure that since reading the story yesterday many Americans are trying to [illegible] how far along the Soviet Union [illegible] their deployment of the chicker[illegible], and how will our Minuteman, M[illegible]man, and Sparrow missiles get al[illegible] with this new weapon, which I [illegible]ld personally like to call the Perd[illegible]issile. I am also trying to find ou[illegible] the Navy is working with the Air [illegible]ce on this project to develop one of [illegible]heir own missiles which would be, one assumes, a chicken of the sea.

These concern[illegible] notwithstanding, Mr. President, I w[illegible]nt to congratulate the Air Force on t[illegible]ir resourcefulness and attention to [illegible] most disturbing problem. Despite [illegible]he fact that there will no doubt be [illegible]hose that will be skeptical of such [illegible]earch, I for one, see nothing more i[illegible]volved than a little "fowl" play.

Mr. President, I have no further need for my time.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

S. 1448—DESIGNATION OF THE SQUARE DANCE AS THE NATIONAL FOLK DANCE OF THE U.S.A.

Mr. BYRD. Mr. President, in the last Congress, I introduced a Senate resolution to designate the square dance as the national folk dance. The resolution was adopted by the Congress with an amendment and signed into law by the President on June 1, 1982.

Since that time, the square dance has enjoyed an increase in popularity. Membership in the many square dance organizations formed over the years has grown, and new organizations have come into being since the enactment of the law. Below, I am inserting a summary of square dance activities since last June which I have received from the National Folk Dance Committee. I ask unanimous consent that the statement be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

THE DESIGNATION OF THE SQUARE DANCE AS THE NATIONAL FOLK DANCE OF THE U.S.A.

The recent designation of the Square Dance as the National Folk Dance of the United States of America, by Congress, has resulted in a proud and positive reaction by millions of people, especially active dancers, all over the Nation. The wide coverage by the media, focusing attention on the National Dance through television, radio, newspapers, and magazines, has created an enormous interest and growth in square dancing which is overwhelming.

Clubs, churches, and social groups are clamoring for information about the dance. Square dancing is currently being taught in schools across the Nation, from elementary through high school, and many more schools are seeking ways to include the activity in their curriculum.

A number of universities, through their English Language Extension Course for foreign students, include students' participation in square dance parties so they may be aware of this part of our American heritage. Commercial concerns entertaining foreign customers use these square dance parties and blue grass music to treat them to a true part of America.

The recognition, by Congress, has increased spectator attendance at square dance festivals and civic functions. Formal organizations have increased in number by twenty-five percent. Many who have ridiculed the Square Dance for being rough and hayseed, are taking a second look, and finding square dancing to be modern, appealing to people of all ages, races and creeds. The Square Dance has been danced for more than two centuries, conforming with the ever-changing life style of the American people. Class distinction is forgotten when people join together to enjoy the true fellowship of the Square Dance. The Square Dance is recognized everywhere as indigenous to America, and even in foreign lands the calls are in the English language.

The Square Dance is recognized as the State Dance of Alabama, New Jersey, Oregon, Tennessee and Washington. It has been declared the official dance of Cook County, Illinois, and legislation is pending, according to reports in Alaska and Kentucky to designate the Square Dance as the official dance of those States.

Everyone can enjoy the fun and fellowship of this wonderful part of our American heritage. We truly believe the Square Dance should have permanent designation, by the Congress, as the National Folk Dance of the United States of America.

Mr. BYRD. Mr. President, the amendment to the square dance resolution limited the designation to 2 years. After reviewing the summary statement above, I hope that all of my colleagues in the Senate will agree that the enthusiasm with which the Nation has accepted the square dance as the national folk dance justifies a permanent designation.

I am pleased that I am supported in presenting this bill to the Senate by the distinguished majority leader, Senator HOWARD BAKER, and the distinguished chairman of the Judiciary Committee, Senator STROM THURMOND, and many other Senators on both sides of the aisle who cosponsor this bill today, and I thank them for their interest.

Mr. President, I ask unanimous consent that the names of the cosponsors and the bill be printed in the RECORD.

There being no objection, the cosponsors and the bill was ordered to be printed in the RECORD, as follows:

The following Senators cosponsor the legislation to designate the square dance as the national folk dance of the United States of America:

Senators BAKER, THURMOND, CRANSTON, RANDOLPH, ABDNOR, BAUCUS, BENTSEN, BINGAMAN, BOREN, BUMPERS, DECONCINI, DOMENICI, DURENBERGER, EAST, GOLDWATER, HEFLIN, HUDDLESTON, JACKSON, LAUTENBERG, LAXALT, LEAHY, MATHIAS, MELCHER, NUNN, PROXMIRE, SASSER, and WILSON.

S. 1448

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that—

(1) square dancing has been a popular tradition in America since early colonial times;

(2) square dancing is a joyful expression of the vibrant spirit of the people of the United States;

(3) the American people value the display of etiquette among men and women which is a major element of square dancing;

(4) square dancing is a traditional form of family recreation which symbolizes a basic strength of this country, namely the unity of the family;

(5) square dancing epitomizes democracy because it dissolves arbitrary social distinctions; and

(6) it is fitting that the square dance be added to the array of symbols of our national character and pride.

SEC. 2. The square dance is designated as the national folk dance of the United States.

SEC. 3. This Act shall take effect January 1, 1984.

Mr. BYRD. Mr. President, I yield any remaining time to the majority leader.

Mr. BAKER. Mr. President, I have no further need for my time or the time that he graciously yielded to me. If he has no objection, I will yield back the aggregate time.

Mr. President, I yield back the time allocated to the two leaders under the standing order, and I ask that the Chair now proceed with the order previously entered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. ABDNOR). Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond the hour of 11:30 a.m., with statements therein limited to 3 minutes each.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REAGAN NUCLEAR ARMS CONTROL POSTURE—RIGHT OR WRONG?

Mr. PROXMIRE. President Reagan has announced that his arms control negotiations with the Soviets will take on a more flexible approach. The United States will negotiate with the Soviet Union on some issues on the terms the Soviets prefer, provided we can satisfy ourselves that we do not suffer any disadvantage in such negotiations. Specifically, if the Soviets want to negotiate on the basis of megatonnage, we will say OK, let us proceed. If they choose throw-weight instead of megatonnage, we shall consider that. We are willing to shift to the number of warheads instead of the number of missiles to discourage the deployment of destabilizing multiwarhead missiles, as the MX, if the Soviets will go along.

All this sounds encouraging and it is. It does, indeed, represent a more constructive attitude toward arms control negotiations. On the other hand, unless the public is actually privy to the negotiations—which we cannot be—we have no way of knowing whether these very general public instructions to General Rowney and other U.S. negotiators really mean that the U.S. negotiators are, in fact, working in good faith with full flexibility to achieve an agreement.

Has the President given Mr. Rowney any confidential instructions that have not been publicly released? The President, of course, has every right to do exactly that. He has never said, and I would not expect him to say: "Here is what I have told Rowney and I have told him nothing else." So we cannot and will not know what the full instructions from the administration to Rowney have been.

We do know that the President certainly must have told Mr. Rowney that whatever agreement he may achieve with the Soviets should under no circumstances be disclosed publicly by Rowney or other U.S. negotiators and that the President himself will, if he desires, modify such an agreement and, if he wishes, send Mr. Rowney back with further instructions. And, certainly, the President will decide whether to accept or reject any agreement at which our Geneva negotiators tentatively arrive. Again the President has every right to do this. He would, in fact, be derelict in his duty as President if he did not reserve for his exclusive decision every word in any agreement our negotiators might secure.

So what is wrong with all this? Nothing, except—let us face it—we do not have and will not have any handle to make a fair judgment of the Reagan

administration's actual sincerity on arms control.

Here is why: Unfortunately, for any President—Democratic or Republican—any announcements of flexibility or bending this way or that to reach an agreement must be viewed by the public as public relations statements that mean nothing. This is not meant to demean or belittle what the President is doing or saying. It is simply to recognize that there is no way we can appraise his negotiations except by looking at the final product, if any.

Now, suppose the President reaches no agreement with the Russians on major limitations on nuclear arms. Suppose any limitations are minor and leave the great bulk of nuclear arms outside of the agreement. Does that signal a failure by the President to sincerely try to reach an arms control agreement? No, it does not. The Soviets may have been unreasonably stubborn and intractable in negotiations. Undoubtedly, if negotiations failed, the administration would say exactly this. And we would deny it. Who would be right? No one would really know or could know. The conclusion of a reasonably comprehensive arms control agreement with the Soviet Union does not necessarily indicate success on the President's part until we have a chance to examine the agreement over time and in detail.

The administration has already shown reluctance in pressing for an agreement to stop satellite killers. This weapon could make arms control monitoring virtually impossible because either side would knock out the satellites on which we rely to determine whether the U.S.S.R. has launched a nuclear missile attack on the United States. This weapon could effectively end any arms control agreement. The Russians have a crude satellite killer. We have spent over $200 million in research and the administration is asking for $3.4 billion to produce and deploy a far more effective weapon to destroy satellites. The GAO tells us the weapon system could cost $15 billion before it is complete. It would be deployed in 1986, and if deployed and ready could signal the end of whatever arms control agreement the negotiators reach at Geneva.

Why? Because, for any arms control agreement, verifiability lies at its very heart. If the Russians have the capability of knocking our monitoring satellites out and we have the power to do the same to theirs, then no arms control agreement could be enforced. It would be a pious and meaningless pledge that both sides would feel—understandably—constrained to violate.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate called the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TOWARD A MORE PERFECT JUSTICE: THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, Robert E. Conot has recently published a valuable book on the trial of Nazi war criminals. The book, "Justice at Nuremberg," deserves the Senate's attention: it serves as a vital reminder to those who lived through the trials of Goering, Himmler, and others; more importantly, Conot's book can educate the large number of Americans who were born too late to remember these historic trials.

Conot argues for what is today out of fashion: that justice was served at Nuremberg. As defendent Albert Speer put it: "However imperfect, these Nuremberg trials are a necessary step in the process of recivilization."

The opposite side remains, however: that justice at Nuremberg was not perfect justice. For one thing, the German defendants could claim that the laws under which they were prosecuted were made ex post facto—that prosecution was, in fact, persecution. Skeptics further complained that it was unfair for the victors to try the vanquished. Most importantly, Nazi Germany was not punished for its most heinous crime—the systematic liquidation of 6 million Jews.

The irony, that the Nazis went unpunished for the thing they were most guilty of, was not lost on the policymakers after World War II. In an attempt to remedy the imperfections of Nuremberg, the United Nations swiftly produced a Genocide Convention, engineered, I am proud to say, by the United States. Since 1949, the Convention has continually been supported by U.S. Presidents, both Republican and Democratic. Astonishingly, 34 years later, the Convention remains unratified.

The idea behind the Convention should not be controversial: by declaring genocide a crime against international law, the framers hoped to deter any future attempts at a final solution. No perpetrator of genocide would be able to claim, as the Nazis did, that he never violated the law.

I would be the first one to admit, Mr. President, that this Convention is only a small step and certainly no panacea. But if this treaty, in some small way, lessens the need for another Nuremberg trial, if the Convention somehow makes the justice a little more perfect, then we would all be better for it.

I urge my colleagues to give consent to the Genocide Convention now.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

SUPPLEMENTAL APPROPRIATIONS, 1983

The PRESIDING OFFICER. Under the previous order, the hour of 11:30 a.m. having arrived, the Senate will now resume consideration of the pending business, H.R. 3069, which will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3069) making supplemental appropriations for the fiscal year ending September 30, 1983, and for other purposes.

The Senate proceeded to consider the bill.

Mr. BAKER. Mr. President, as I indicated earlier today and last night, and as I announced during the last several days—I believe every day this week—I hope we can finish this bill today, except for those votes which are stacked to occur beginning on Tuesday.

At 12 noon today, or thereabouts, I intend to propound a unanimous-consent request that only listed amendments will be in order on this bill. The amendments I have now are as follows: Armstrong, a Dallas Creek project; Bumpers, re Elementary and Secondary Education Act; Bumpers, Six-Mile Creek; Baucus, farmers home, business, and industrial loans; Tower, $5 million for Army operation and maintenance; Weicker, a $500,000 add-on for ACTION pay; and Eagleton-Rudman amendment dealing with health centers; a Dole amendment dealing with pay and honoraria; a Baker amendment dealing with pay and honoraria; a Metzenbaum amendment dealing with Navy leasing; a Boren amendment in respect to the announcement of farm programs.

Mr. STENNIS. Mr. President, what the majority leader has read coincides exactly with the list we have.

Mr. BAKER. I thank the manager on the Democratic side. I hope there are no more amendments; but if there are, I urge Senators to present the amendments so that we can include them in the request at 12 noon.

Mr. HATFIELD. Mr. President, I ask the Chair to set aside the pending

committee amendment, the D'Amato amendment, in order that the Senator from Texas may offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas.

AMENDMENT NO. 1359

(Purpose: To restore funding for POMCUS Division Sets 5 and 6 and to repeal the provision that prohibits transportation of equipment intended to fill those Division Sets)

Mr. TOWER. Mr. President, I send to the desk an amendment on behalf of myself and Senators PERCY, THURMOND, JACKSON, COHEN, LUGAR, NUNN, HATCH, EXON, WARNER, BINGAMAN, LEAHY, HUMPHREY, JEPSEN, QUAYLE, LEVIN, and MATHIAS.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. TOWER), for himself and others, proposes an amendment numbered 1359.

Mr. TOWER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, line 21, strike out "$1,190,000" and insert in lieu thereof "$6,190,000".

On page 17, between lines 14 and 15, insert the following:

Section 773 of the Department of Defense Appropriation Act, 1983, as contained in Public Law 97-377 (96 Stat. 1862), is repealed.

Mr. TOWER. Mr. President, this amendment would permit the Department of Defense to begin to fulfill an important U.S. commitment, first made by President Carter in 1978, to pre-position U.S. Army division sets 5 and 6 in Belgium and the Netherlands.

The 1983 supplemental appropriations bill, H.R. 3069, jeopardizes this important pre-positioning program—known as POMCUS—by failing to provide $5 million requested by the President to train and equip the initial group of personnel required to maintain the equipment of division sets 5 and 6 in Europe. H.R. 3069 also fails to repeal, as requested by the President, section 773 of the fiscal year 1983 Defense Appropriations Act which specifically prohibits the use of funds to transport equipment to these POMCUS sites. The amendment offered would provide the $5 million requested by the President and would repeal the restrictive prohibition.

The Senate has long been concerned about shortcomings in NATO's conventional defense capabilities. Given the ability of the Warsaw Pact to quickly mobilize its forces and to launch an attack after a relatively short period of strategic warning, the United States and her European allies have given increased emphasis to improving NATO's warfighting capabilities in the initial days of conflict. The POMCUS program is the key element of this effort.

The United States does not now have, nor can she acquire in the foreseeable future, the mobility assets to deploy from the continental United States the unit equipment of sufficient combat forces to reinforce Europe in a timely manner. The only option available at this time is the POMCUS program. Failure to implement the POMCUS program for division sets 5 and 6 would be a decision to forgo plans to substantially strengthen NATO's conventional defense capabilities.

Mr. President, what troubles me most about the possible rejection of the POMCUS program is the fact that trends in the strategic and theater nuclear balances have made improved conventional capabilities more important than they have ever been. Despite this fact, certain of my colleagues want to undo the most cost-effective program for strengthening NATO's conventional capabilities.

In testimony before the Committee on Armed Services in April of this year, General Rogers, the Supreme Allied Commander Europe, stated: "By nations' continued failure to meet fully their commitments to improve conventional forces, NATO has mortgaged its defense to the nuclear response." Speaking specifically to the POMCUS program, General Rogers added: "With POMCUS sets 5 and 6 in place, there is a good chance that those divisions would be able to reinforce in time and sustain defense of Northern Germany using conventional weapons. Without such timely reinforcement, early use of nuclear weapons would be unavoidable." I would ask those Senators who oppose the POMCUS program to explain what alternative programs, if any, they have in mind for strengthening NATO's conventional capabilities.

When the NATO heads of state approved the long-term defense program in 1978, they agreed to the pre-positioning of heavy equipment for three additional U.S. divisions in the central region, for a total of six U.S. division sets of POMCUS. The pre-positioning of the first of these three additional division sets, located in the Federal Republic of Germany, is well underway and is not at issue. The last two sets—division sets 5 and 6—are to be located in Belgium and the Netherlands. It is these two division sets that are set back by H.R. 3069.

The POMCUS program demonstrates an effort by our European allies to assume a greater share of the burden of NATO defense. In return for the U.S. commitment to provide POMCUS division sets 5 and 6, our European allies agreed to acquire the land and to finance the construction of the storage sites. The NATO allies have lived up to their part of the bargain. The Belgians and Dutch have spent more than $60 million to acquire the real estate for storage warehouses for division sets 5 and 6. The NATO infrastructure program has allocated more than $180 million for construction at these sites. In fact, construction of facilities for division sets 5 and 6 in Belgium and the Netherlands is virtually completed at a time when the U.S. Congress is still wavering on its support for this crucial program.

If the United States were to renege on her POMCUS commitments, this would clearly demonstrate a lack of U.S. reliability and credibility, and could have untold consequences for other burden-sharing initiatives. In addition, the failure of the United States to fulfill her POMCUS commitments could have serious political repercussions in Belgium and the Netherlands where the planned ground-launched cruise missile deployments remain an important, yet controversial, program.

During consideration of the 1983 continuing resolution, the Senate expressed its full support for the POMCUS program by appropriating funds for division sets 5 and 6 and by repealing section 773. Unfortunately, during the joint conference, the conferees elected to delete the funds and retain the restrictive provision. Nothing has occurred since December, in my estimation, to warrant a change in Senate support for this vital program.

Mr. President, I understand the frustration that my colleagues have expressed about getting our NATO allies to assume a greater share of the conventional defense burden. At the same time, I am convinced that if the United States withdraws from commitments that we have already made to our allies—when they have fulfilled their part of the bargain—we will only cause the allies to do less, not more, and harm vital U.S. security interests in the process. Thus, I urge the support of my colleagues for this amendment that will permit the United States to begin to fulfill an important international commitment and that will lead to a substantial strengthening of NATO's conventional defense capabilities.

Let me state again, Mr. President, that I cannot understand why my colleagues would reject this amendment and make us more reliant on escalating to a nuclear exchange when we have an opportunity here to strengthen our conventional capability.

That is something we should address ourselves to if indeed we want to have an effective means of combating potential threat, without the prospect of having to escalate the nuclear weapons.

Mr. HATFIELD. Mr. President, I do not think there is any problem in accepting the amendment of the Senator from Texas. In fact, I merely wish to

take this opportunity to emphasize a point that I frequently have felt and stated that too much of our leadership in Congress has been too mesmerized by the strategic nuclear weapons program to tend to the real needs of the military in the operation-maintenance readiness factors and comparability of pay.

I think it is very interesting to note that comparability of pay was initiated by Members who were not even members of the Armed Services Committee. Even though I may have some reputation of being opposed to military spending I am proud of the fact that I did initiate, along with Senators MATSUNAGA and ARMSTRONG, a comparability pay proposal from the floor. I have supported the strengthening of the reserve programs and the operation and maintenance readiness factor.

I commend the Senator from Texas because I think this is the kind of leadership that is desperately needed not only to fulfill our commitment to NATO and to strengthen our conventional weapons program and welfare but also in terms of the operation and maintenance portion of this $5 million he is asking to be added to the supplemental.

I checked this with the chairman of the Subcommittee on Defense, Senator STEVENS of Alaska, and it is cleared with his subcommittee people, and I am very pleased to accept the amendment being offered by the Senator from Texas.

Mr. TOWER. I thank my distinguished friend from Oregon for his statesmanlike attitude on this measure. I think none of us want to see us have to fall back on nuclear weapons.

There is another aspect of this should that happy day occur when we reach the zero option and there are no more nuclear weapons hopefully deployed in Europe. Given their great superiority of numbers, the Soviets might be more tempted to engage in conventional warfare. So I think we should keep the threshold of risk for them and have a credible conventional deterrent for that day when perhaps we have achieved what might be called nuclear balance between the two great superpowers or at least a standoff that would make it less likely that either side would resort to nuclear weapons.

I think that my distinguished friend from Georgia, Senator NUNN, who is one of our best experts on European matters is in the Chamber, and I yield to him.

Mr. NUNN. Mr. President, I rise in support of the amendment offered by the distinguished chairmen of the Committees on Armed Services, Foreign Relations, and other cosponsors. This amendment will permit the implementation of an important NATO defense cooperative program—that is the operation of the storage sites for sets 5 and 6 of the pre-positioned fighting equipment needed for U.S. reinforcements to NATO.

It is critically important that the United States adhere to our POMCUS commitments. Both General Rogers, Supreme Allied Commander Europe, and General Froesen, former Commander in Chief of the U.S. Army in Europe, have repeatedly insisted that the full 6-division set POMCUS program is necessary—both militarily and politically. The forward stationing of 4 U.S. divisions and the pre-positioning in Europe of equipment for an additional 6 divisions is the least expensive way for the United States to support our 10-division D-day force commitment and the only feasible way to do it in the near term.

I think the U.S. Army needs the $5 million requested for operation of the storage site in the Netherlands. Although that site will not open until March 1984, the Army must begin to train and equip local civilians in fiscal year 1983 to insure that they are prepared to receive and maintain the equipment. The Committee on Appropriations had recommended deferring funding for this program until fiscal year 1984. However, if funding is delayed until the fiscal year 1984 Defense Appropriations Act is passed, the necessary contract arrangements would not be finalized until January 1984 at the earliest. The subsequent training period for workers and supervisors maintaining the sites would mean a delay of at least 3 to 6 months between the time that the site is released to the United States and the time when the U.S. Army could place trained workers and supervisors at the site.

In addition, failure to repeal the provision prohibiting the use of funds to transport equipment to the POMCUS sites in Belgium and the Netherlands prolongs the uncertainty which surrounds the U.S. commitment to this program. Removing the prohibition would signal a clear U.S. commitment to this essential program and would insure that unit equipment could begin moving to the warehouse when the sites become available.

We have been sending mixed signals on this and other important NATO cooperative and two-way-street programs for several years. I think the Congress should clarify our message—we will honor our alliance commitments just as we expect our allies to honor theirs.

Mr. President, this amendment, if passed, would do precisely that, and I urge my colleagues to support it.

Mr. President, if I heard correctly, the Senator from Oregon agreed to accept the amendment. Perhaps I should cut my remarks very short. So I will not say anything that would disrupt that accord that has obviously been reached between the Senator from Texas and the Senator from Oregon.

My purpose, though, is to endorse the amendment which both the Senator from Texas and the Senator from Oregon has endorsed. I think it is a very important amendment. I think it is exactly what the Senator from Texas and the Senator from Oregon have been talking about. It is a move toward less reliance on early use at least of the nuclear weapons and more conventional capability.

I thank the Senator from Texas for proposing the amendment which I think is a good one. I cosponsored it. I also particularly thank the Senator from Oregon for being willing to accept the amendment.

Mr. HATFIELD. The Senator from Mississippi I am sure concurs in acceptance of the amendment.

Mr. STENNIS. Mr. President, if the Senator will yield to me, we know of no opposition to this amendment on this side of the aisle.

Mr. HATFIELD. I thank the Senator.

This is an historic time where the Senator from Texas, the Senator from Georgia, the Senator from Mississippi, and the Senator from Oregon all agree on military expenditure. I think it is very significant.

Mr. TOWER. We are all men of goodwill and judgment.

Mr. NUNN. We may want to each reexamine our position.

Mr. HATFIELD. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas.

The amendment (No. 1359) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TOWER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I wish to make a statement of resume on the activities of yesterday.

I thank my colleagues for their cooperation. It was a long session and a busy one, and we adopted 20 amendments yesterday and stacked 3 more for votes on Tuesday.

In those 20 amendments—I might add, we might consider this a rather remarkable achievement—we only added $23.1 million to the total cost of the bill and that for widely supported worthwhile projects.

I am very hopeful we can conclude all the amendments very early today and be again in a sense of restraint for adding money to this bill because we are going to have to in conference reduce this overall figure by over $600 million or at least approximately $600

million, and this is not going to be easy.

So every dollar that is added by amendment will make that task more difficult in conference.

With that admonition in mind, Mr. President, I suggest the absence of a quorum.

Mr. METZENBAUM. Mr. President, I wish the Senator from Oregon to know that I am prepared to go forward.

Mr. HATFIELD. I appreciate that. We will move to that very shortly after I have a brief quorum call.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask again that the Chair temporarily lay aside the committee amendment and the D'Amato pending amendment in order that the Senator from Ohio may be privileged to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1360

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 1360.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following new section:

SEC. . (a) An agency of the Government may not use any funds available to such agency to indemnify any person (including costs of legal fees), pursuant to any contract with the United States, for amounts paid by such person to the United States by reason of any action of the Internal Revenue Service unless authorized by a statute enacted before, on, or after the date of enactment of this Act.

(b) Notwithstanding any other provision of law, any amounts paid by an agency of the Government on or after the effective date of this Act to indemnify any person, pursuant to a contract with the United States, for amounts paid by such person to the United States by reason of any action of the Internal Revenue Service shall be a debt owed by such person to the United States to the extent that the funds available to such agency from which such amounts were paid were not authorized by a statute enacted before, on, or after the date of enactment of this Act to be used for such purpose. Each such debt shall be subject to all Federal laws having general applicability to debts owed to the United States and shall be collected in the same manner as is provided by such laws.

(c) It is the sense of the Congress that in the case of any contract by which the Department of the Navy has leased cargo space in a maritime vessel from a contractor, the Department of the Navy should (1) exercise any option to purchase such maritime vessel provided by the lease contract or (2) renegotiate the terms of the contract to procure such cargo space by the most cost effective means authorized by law.

Mr. METZENBAUM. Mr. President, this amendment addresses actions taken in recent months by the Department of the Navy to procure naval vessels in a manner which circumvents the authorizing and appropriations process and which obligates the U.S. Government to pay the legal expenses of contractors. For what purpose? To fight the IRS.

This method of acquisition imposes substantial extra costs upon the taxpayers and jeopardizes the future readiness of our naval forces by converting the operations and maintenance budget into a procurement account, and it further requires the taxpayers of this country to pay attorney's fees of major defense contractors which want to defend their tax shelter deal.

Imagine that, it is almost unbelievable, that the Navy would enter into a contract with a lessor of a ship and agree that if the lessor does not get its tax advantages under the tax leasing program that the Navy will not only pay the lease charges but it will pay the taxes that will be incurred by the lessor, and as if that were not enough, and I believe this is almost beyond compare in anything that I have seen in Government documents, it provides that the Navy will pay the costs of the lawyers who will be fighting the IRS.

What does that amount to? What that amounts to is that one arm of Government is paying a private individual who is fighting another arm of Government and guaranteeing that individual that if they do not win, the Navy will pay the costs of the extra taxes and will also pay the legal fees that the private individual incurs.

Mr. President, the Navy has determined that 13 cargo ships are required to support the Rapid Deployment Force. I want every Member of this body to understand that I do not question the need for those 13 cargo ships. This issue has nothing at all to do with whether or not the Navy should or should not have the cargo ships. It is perfectly fine with me if the proper committees of the Senate and the House agree that those ships are needed. I have no quarrel with that at all. As a matter of fact, the ships can be purchased at a cost of $178.2 million apiece and I am not standing on this floor to question whether that price is right or wrong. As far as I am concerned the price is fine.

But instead of buying the ships the Navy chose to take another route, to contract for the construction of the vessels and then lease them for a 5-year period with an option to extend the lease for up to 25 years.

Frankly, I want to say to my colleagues in the Senate I do not know that I would get that excited if they were leasing ships for 5 years and then extending it for 25 years. I do not object to that. That may be an entirely appropriate manner in which the Navy would like to use ships or obtain ships, provided the authorizing committee and the Appropriations Committee say that is what should be done. That is fine with me.

But what it means to the U.S. Treasury is not so fine with me. In dollars these leases will mean a cost to the taxpayers of $415 million per ship over the term of the lease. I want to refresh your recollection. I just said a moment ago that those same ships can be bought for $178 million and the Navy is going to pay $415 million per ship instead of $178 million.

Mr. President, so there is no misunderstanding about it, that figure is for the ship alone. It does not include the cost of personnel, it does not include the cost of maintenance, and it does not include the cost of operation. I have no objection to that, but I do not want any misunderstanding among my colleagues.

Mr. President, may we have order in the Senate, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. METZENBAUM. I thank the Chair.

Under this arrangement the Navy bears the financial risk in the event that any of the vessels are destroyed in wartime. The Navy bears sole responsibility for future increases in fuel costs, wages, insurance, and other operational expenses, and if the Navy decides not to renew any of its 5-year options, the taxpayers of this country are obligated to pay to the owners an amount equal to the fair market value of the vessel in question. This, Mr. President, is only the tip of the iceberg. But so there is no question about it, I am not even attacking those provisions, although I do believe them to be questionable. But that is not the thrust of this amendment.

I have cited the direct cost figure of $415 million per ship over the term of the lease as against a cost of $178 million. But there are other costs, and that is a matter about which I am concerned. Those are indirect costs that very substantially increase the price that the people of this country will be required to pay. This is so because with this leasing arrangement, the U.S. Navy has gone into the business

of selling tax shelters. Since they are constructing these ships for lease, not sale, the shipowners intend to take an investment tax credit and depreciation deductions for the first 5 years. They plan also to deduct any interest they pay on bonds used to finance the construction, and according to a Navy study these tax writeoffs could cost the Treasury $210 million for each ship over the 25-year lease term.

I just finished saying that the total cost of the ship can be bought for $178 million but the tax writeoffs will cost the Treasury $210 million alone. But that is fine with the Navy. The money does not come from their budget. The money does come from the Federal Treasury in the form of taxes never paid, and in the end it is money that will have to be made up by taxpayers who do not enjoy the benefit of these enormous writeoffs.

In present dollar terms the Government will pay about $199 million to charter the ship that could have been purchased for $178.2 million.

And that $199 million is over and above that $210 million in tax writeoffs. But, again, Mr. President, I still have not told the whole story. The Navy has gone one step further.

Because no one can be certain whether the IRS will permit the entire $210 million per ship writeoff, the Navy decided to indemnify the shipowners. Permit me to explain in plain English just what indemnify means.

First, the Navy and the shipowners agree that the $210 million per ship tax break may not survive IRS scrutiny. So the Navy says:

> Don't worry. Have no fear, Uncle Sam's here. We'll guarantee the tax break. Either you get it or we'll pay it. Now if you have to go to court, we, the Navy, will do something else for you. We are not only going to pay you to lease the ships, we are not only going to guarantee you the tax breaks, but we are going to do something else. We are going to let you hire the best lawyers in the country, and we'll pay you for your lawyers.

Now, how absurd can you be? The Navy pays the individual who is getting $199 million in lease fees, getting $210 million in tax breaks if they are deductible, guaranteeing the tax breaks, and then saying, "But if there is any problem, we'll pay you for your lawyers." That is a pretty good deal for the lessor. And the Navy further says, "If you lose, no trouble. Don't worry, we're here. We, the Navy, will pay every penny of the lost tax breaks, every penny of the interest, and every penny of the penalty."

Now, come on. How far can the U.S. Government be milked before we in the Congress say, "Wait a minute. Slow down"?

Now, my amendment does not say they cannot make these deals. That is some other pending legislation that will be considered at an appropriate time on the floor of the Senate. All my amendment does is to say that no part of the dollars in this supplemental appropriation bill may be used to indemnify the lessor for his tax deductions if he does not get them nor may any portion be used to pay the attorney's fees.

Now, where does the Navy plan to get this money? The answer, unfortunately, is from the Navy's operation and maintenance account, the money designated by the Congress for keeping the ships sailing, the planes flying, and the weapons in working order.

Mr. President, may I have order in the Senate.

The PRESIDING OFFICER (Mr. MATTINGLY). There will please be order in the Senate so the Senator from Ohio can be heard.

Mr. METZENBAUM. I thank the Chair.

Mr. President, I must say that I have been in public life and private life a good many years, but never before have I seen nor heard of one branch of the Government so willing to fight it out in court with another branch. The executive departments were never intended to compete one against the other. When disputes arise between departments, the proper place to resolve them is in the White House. It is the way it has always worked in the past. But what we have here is a totally different approach. And I believe it is one that is contrary to the basic principles of our form of government.

I am not sure if the Navy is going to pay to fight the Internal Revenue Service. What will the next step be? Will the Navy be suing the Air Force over which branch of the armed services has the right to use a certain landing field? Will the Department of Health and Human Services sue the Argiculture Department over food stamp illegality? Will the Treasury Department sue the Labor Department over a dispute involving a pension plan? Of course not. It will be resolved, as it has traditionally been resolved, in the White House or by representatives of each of those departments of Government meeting with each other to work it out, but not in the courts.

Well, what the Navy is saying to the Internal Revenue Service is something entirely different. They are saying:

> If you find that the owners of the ships that we are using do not qualify for certain tax breaks, we will see to it that the lessor, the individual, the private operator, will take you to court. If we lose, we will pay the bill. And because we want to be certain that that individual is able to best state his or her case, we'll pay for his or her lawyers as well.

Now, another point should be made. What happens if Congress changes the tax laws? Mr. President, if Congress changes the tax laws, the Navy has taken care of that as well. The Navy has decided that those changes will not adversely affect the shipowners. The Navy will pay for any increases in their tax liability.

It is Congress, as I see it, which is vested with the authority to make the laws of the land, including our tax laws. It is the responsibility of the executive branch, including the Department of the Navy, to execute those laws. For the Department of the Navy to tell a taxpayer that he will, in essence, be immune from any changes in the law is utterly outrageous.

The fact is that this provision may already be benefiting the shipowners, because last fall Congress enacted a change in the amount of tax writeoffs all taxpayers may take, known as a basis adjustment. Now that provision will normally deny certain tax breaks to the shipowner, but the Navy has indicated that because the price of the ship was negotiated prior to the enactment of that basis adjustment provision, the Navy will likely have to pay the extra amount.

Mr. President, this provision is also important because the House Ways and Means and the Senate Finance Committees are now considering or about to consider legislation to curb the use of leasing as a tax gimmick by State and local governments and nonprofit entities.

In all candor, the distinguished chairman of the Finance Committee has directed his attention to the subject of the use of leasing by State and local governments and nonprofit entities. He and I engaged in a colloquy on the floor of this Senate, I think it was on May 23, relative to the fact that legislation would be jointly introduced by himself, with me as a cosponsor, and recognizing that the House was, as of that date, introducing legislation addressing itself to the issue of leasing by State and local governments and nonprofit entities.

It is a further fact that the distinguished chairman of the Finance Committee has discussed with me this very issue. Although we have not as yet arrived at an appropriate result, it certainly is fair to point out that Senator DOLE, my good friend from Kansas, the chairman of the Finance Committee, has, in my opinion, been as attentive and as concerned and aware of this kind of abuse of normally accepted provisions of our tax laws as any single Member of the Senate, and certainly has been very willing and has shown by his actions that he is prepared to eliminate those abuses of existing provisions of law when those provisions of law are being used in a manner for which they were not originally intended.

I point out that it is entirely possible that the Congress will, in the near future, eliminate some of these tax advantages currently available to investors. I should also point out that the Internal Revenue Service has spoken

and testified at the House Ways and Means Committee hearing, not on this particular legislation but on the Pickle bill which deals with the entire subject of the abusive use of leasing as a tax shelter.

Mr. HATFIELD. Will the Senator yield for a question? Will he indicate his time requirement? We have about 20 amendments to deal with.

Mr. METZENBAUM. I would say just about 10 minutes.

Mr. HATFIELD. I would say that we do have about 20 amendments——

Mr. METZENBAUM. If the chairman can assure me that I have been sufficiently persuasive thus far that he is prepared to accept the amendment——

Mr. HATFIELD. I believe the longer the Senator speaks, the less likely we are to accept it. [Laughter.]

Mr. METZENBAUM. What does the Navy say about all of this? It says if we treat the Navy like every other Government unit impacted by the House bill, we, the taxpayers, will be liable for more than $2 billion. In other words, instead of the taxpayers paying the $2 billion through tax writeoffs given to the investors, the Navy will be required to properly account for its expenditure as part of its budget. When they have to account for a greater amount of the cost in the price of ships, we hear them arguing, "No, this is not such a great deal at all." In fact, according to the Navy's analysis, an end to these tax practices means that we will pay $9 million more than the purchase price of the ships.

What does the Office of Management and Budget say about the indemnity clause? In response to my inquiry about the clauses, OMB Director David Stockman wrote:

> Legal fees incurred in connection with the claims against the Government are generally not allowed.

But this, Mr. President, is exactly what these contracts provide. The TAKX cargo ship program is not the only Department of Defense leasing program. The Navy is planning to lease several T-5 tankers. The Navy has indicated full accounting of the costs of this leasing program will raise the price tag by $89 million per year.

The Air Force is planning to lease more than 100 CT-39 executive aircraft to fly Members of Congress and high-ranking Pentagon officials around the country. The Air Force, too, is asking to be exempt from any changes in the tax laws that might require budgetary recognition of the full costs of the lease.

The supplemental appropriations bill, I should point out, addresses this issue, but I do not believe that it goes far enough.

The GAO has issued an opinion that the Navy must set aside in its industrial fund moneys to cover any potential liability. That sum is so large that if the Navy is required to pay a contractor an amount under the indemnity clauses, the Navy will face the prospects of depleting its operations and maintenance account.

Mr. President, it simply does not make sense to spend $415 million to charter a ship that could be purchased for $178.2 million. There is certainly no reason that should subject the taxpayers to even more costs to pay the legal fees, the court costs, and the tax bills of private contractors.

Mr. President, I believe my amendment does not prevent the Navy from getting the leases and does not prevent any other department or agency from properly entering into contracts. My amendment merely states that no funds can be used to protect a Government contractor from an action of the Internal Revenue Service.

In essence, my amendment says that Congress, not the executive branch, has the authority to exempt persons from provisions of the law.

I want to further make it clear that the amendment does not in any way imply that the indemnity provisions that have presently been written into these contract are valid. I do not know if they are valid. I doubt that they are valid. But I believe we ought to make it clear that the Navy and the Air Force, and other divisions of Government, should not be involved in tax indemnification and further providing for the cost of paying the legal fees.

Mr. President, I got the message from the chairman of the Appropriations Committee. As sure as I was there was a chance he would accept the amendment, I do hope that based on the brevity of my remarks he may see fit to do that.

Mr. HATFIELD. Mr. President, I am delighted that the Senator has raised this issue. At this point, I must say I will not be able to accept the amendment because of the fact we have not been able to contact the subcommittee chairman on this subject matter. If I may recommend, I would suggest that the Senator ask for the yeas and nays in order to get this stacked over until Tuesday when we will have the full Senate dispose of it on a vote.

Mr. METZENBAUM. I will be happy to do that. But I see the distinguished chairman of the Finance Committee is standing. I would like to hear his remarks.

Mr. DOLE. Mr. President, I commend the distinguished Senator from Ohio. Again, I think we are getting into an area that, frankly, the Finance Committee has not had the opportunity to take a look at. We are attempting to stop some of the abuses we see building up in this area. We have been advised that campuses want to lease their whole campus and then can use their tax benefits and take advantage of all kinds of tax gimmicks. I think now with the Government involved in this with the Navy, it is time we take a hard look and enact some corrective legislation. I share the views expressed by the Senator from Ohio.

As he indicated, we did have a colloquy on the floor on the 23d of May. We are putting together a bill right now that we hope to introduce very soon which will address this problem. At that time, we will have public hearings, with the Navy, the Government, campuses, colleges, universities, and others using this technique, having the opportunity to come before the committee and try to make their case.

Mr. President, this Senator supports new substantive limitations on the use of Navy leasing. This Senator has announced in this Chamber that he will soon introduce a bill to disallow the benefits of such leasing—ACRS deductions and the investment tax credit, according to the Navy and the private parties to this transaction. I am pleased to join the Senator from Ohio in supporting this amendment to prevent the tax indemnity provision of the leasing contracts from subverting the efforts this Senator will make to close this loophole.

It seems to me, however, that we are stretching, if not the law itself, the intent of the law. I would just say in suporting the distinguished Senator from Ohio I do not want to be misunderstood.

First, I do not want to be construed as endorsing the private parties claims that both ACRS and the ITC's exist for the investors under these leases. They get the investment tax credit in addition to depreciation here, so it is really a sweetheart deal. It is a big, big, subsidy by the taxpayers. In fact, there is substantial doubt as to the merits of those claims.

Second, I do not want to be taken as endorsing the validity of the indemnity clause. It may be valid, it may contravene public policy. This Senator, frankly, can express no valid opinion at this time. It does seem to me that if, in fact, we put an end to this leasing effort, then they will have to go back and address the indemnity clause in the contract.

Here we are, at a time of high Federal deficits, and the funding of tax indemnities for this aggressive tax planning purpose, for me, turned out to be a very important goal. It may be that one way to hide the high cost of defense spending is this way, to do it with some leasing arrangement so it does not show up as an appropriation.

It is a serious problem. It is one that ought to be addressed and discussed. I am not going to support the amendment of the Senator from Ohio, and I am not going to try to make any effort to otherwise try to derail those who may be involved in this particular area.

I say to my colleagues, this may seem like a great opportunity at the moment, but if it spreads and expands, it is going to be a big, big drain on the Treasury. It is going to be through the back door instead of the front door. I think it is an area we ought all to have an opportunity to look at carefully—Republicans, Democrats, whatever.

Having said that, I am perfectly willing to let my statement stand in the RECORD.

Mr. RUDMAN. Mr. President, let me say, in behalf of the Defense Appropriations Subcommittee chairman, that this is a debate where really, like many here, the issues could not join. Much of what the Senator from Ohio says I agree with. There is something rather unusual about a Federal policy which allows one department to attempt to thwart with Federal dollars the efforts of the other. That is not the issue on the part of the Appropriations Committee.

I am advised that if, in fact, this amendment were to be adopted by this body, then essentially, we shall have to find an additional $200 million in outlays and about $200 million in budget authority. We want to check those figures out. They seem a bit high to me, but that is what I am advised this morning.

The distinguished chairman of the Defense Appropriations Subcommittee, Mr. STEVENS of Alaska, and the distinguished member of the Armed Services Committee, Mr. COHEN of Maine, both are intimately familiar with the financial ramifications of what is happening here. So, at least if we are going to vote for the amendment offered by the Senator from Ohio, if we think it has merit, we at least ought to think about what the costs are going to be.

I assume the Senator from Ohio is going to call for the yeas and nays. If he does not wish to, I certainly shall. Then in the few moments preceding the vote on Tuesday allocated in the unanimous-consent agreement, we shall have a chance to hear that side of the story and vote as we wish.

Mr. HATFIELD. Mr. President, is that satisfactory to the Senator?

Mr. METZENBAUM. Mr. President, let me make it clear that I think this practice which Senator DOLE has just addressed himself to and Senator RUDMAN has spoken to as well is really an egregious one that we all ought to be working together to eliminate. I indeed am going to ask for the yeas and nays, but I am not going to kid my colleagues: The issue in connection with this amendment is not the totality of the problem. It does not strike the totality of the problem. I am concerned about the totality, I want to put a stop to it. This is a way of at least trying to get our foot in the door, of sending a message.

I shall ask for the yeas and nays, but I want to say to the distinguished member of the Defense Appropriations Subcommittee that if some assurance can be given that the practice will be stopped in the future, I am less concerned about one deal that has been made than I am about stopping the Navy and the Air Force and the Army from doing it tomorrow, the next day, and the day after. If some way can be worked out that some different amendment will do that or achieve that objective, I am less concerned about the specifics of the language of my amendment.

Having said that, Mr. President, in order to protect my position, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HATFIELD. The D'Amato amendment, which we temporarily laid aside—may I inquire as to how that is to be disposed of? Has it had the yeas and nays requested?

The PRESIDING OFFICER. It has not.

Mr. HATFIELD. Mr. President, again, on behalf of the managers, I ask the Chair to set aside the committee amendment and the D'Amato amendment temporarily so the Senator from Mississippi (Mr. COCHRAN) may offer an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HATFIELD. Mr. President, it was not a unanimous-consent request. It is just a request to set them aside.

The PRESIDING OFFICER. The Chair advises the Senator that it will take unanimous consent to set aside the D'Amato amendment, but not the committee amendment.

Mr. HATFIELD. I ask unanimous consent to set aside the D'Amato amendment temporarily and I instruct the clerk to set aside the committee amendment temporarily so the Senator from Mississippi may offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1361

(Purpose: To appropriate funds for Gulf Islands National Seashore, Mississippi)

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Mississippi (Mr. COCHRAN) proposes an amendment numbered 1361.

Mr. COCHRAN. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 56, line 23, strike out "$64,000,000" and insert in lieu thereof "$68,300,000".

On page 57, line 16, after the semicolon insert the following: "$4,300,000 is for Gulf Islands National Seashore, Mississippi;".

Mr. COCHRAN. Mr. President, I am offering this amendment to restore $4,300,000 to the National Park Service for the Gulf Islands National Seashore. This funding was included in H.R. 3069 as passed by the House of Representatives, but it was not included in the bill approved by the Senate Committee on Appropriations. This amount is needed to satisfy a judgment rendered in the U.S. District Court for the Southern District of Mississippi in April 1982 in an action by the Government to condemn an offshore island, Petit Bois Island, for the Gulf Islands National Seashore, in accordance with the act of Congress in January 1971 establishing it. The trial judge rendered judgment against the United States and in favor of the owners of the property in the amount of $6,120,000, plus interest at 14.5 percent per annum.

Thereafter the Government filed a motion for a new trial. That motion was denied, and the Government filed an appeal. In November 1982 the Government attorneys elected to dismiss their appeal, and this decision became final.

Earlier this year the judgment creditor, through his attorneys, attempted to have that judgment satisfied by a writ of execution on the judgment. After considering the motion to quash the writ of execution, the district judge stated, in an order which was entered in the U.S. District Court for the Southern District of Mississippi on May 4, that unless the judgment is satisfied by October 31 of this year, he will consider permitting the judgment creditor to execute the judgment against property, possibly, of the National Park Service, located in the State of Mississippi.

Mr. President, this is a serious problem. The National Park Service has requested funds to be included in this supplemental appropriations bill to satisfy that judgment. As I stated, the House of Representatives included $4.3 million to satisfy the balance that is owed on the judgment. Of course, the interest continues to increase the amount that is owed to the judgment creditor.

It is my hope that, because the judgment is final, the appeal has been dismissed, and the court has entered an order stating in clear language that the judgment creditor has a right to

collect the judgment and that it will be reopened for consideration, for execution or other appropriate relief if it is not paid by October 31, 1983, the managers of the bill will include this requested addition to the National Park Service account.

Mr. President, during consideration of this bill by the full committee, I offered this amendment and urged its adoption. The chairman of the subcommittee (Mr. McCLURE) argued against approving the amendment because of an investigation that is taking place involving the judgment creditor in the State of Florida. There is some suggestion that there may have been some wrongdoing or some fraud involved in the contracts for the subdividing of property on Petit Bois Island preceding the condemnation proceeding.

However, Government attorneys in the condemnation action stipulated prior to trial, that the contracts were valid, and there was no issue raised in the condemnation case about any fraud or wrongdoing on the part of the judgment creditor in establishing the value of the surface of this land. There was a difference of opinion, of course, and that difference was argued. Witnesses were called to establish the value of the land. The court made a decision about the value of the land. We think, and urge the Senate to agree, that any suggestion now about alleged wrongdoing by a judgment creditor in developing contracts for the subdividing of this land is irrelevant. The judgment is final and the court has issued a subsequent order stating that the judgment creditor is entitled to have his judgment satisfied. I believe the Government is going to look bad, Mr. President, if the Government continues to refuse to pay the judgment which is accumulating interest at 14½ percent, and the judge orders that lands of the National Park Service or other Government property should be sold to satisfy the judgment.

I think we ought to include this appropriation in the bill, Mr. President.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, the Senator has stated his case very well. There is no question that this money will be made available at a time when the clouds or the questions have been removed that surround this particular project. The Senator from Mississippi knows that originally I believe it was appraised at around $330,000 and the court award was $6.1 million which was quite a variance between appraisal and award. I understand, too, that the original appraisal was on a piece of property of some 700 acres and it now is approximately 600, so we have lost about 100 acres in the process. There is, according to the information Senator McCLURE and staff provided the full committee, information that the Justice Department is looking into this matter, so until that cloud is removed it was not deemed the appropriate time to include this money. The Senator from Mississippi knows it is a conferrable item because I believe the $3.2 million has been included on the House side. I merely say to the Senator from Mississippi that once these clouds are removed, according to the comments made in the full committee markup by the Senator from Idaho, the chairman of the subcommittee, and my own feeling about the project, we certainly support the Senator, but I do think at this time with these unanswered questions that have been raised it would be inappropriate to move ahead with the amendment he has proposed.

Mr. COCHRAN. Mr. President, will the Senator yield?

Mr. President, in order to have the record complete, I ask unanimous consent to include at this point in the RECORD a copy of the judgment entered by the court in this case dated April 8, 1982.

There being no objection, the judgment was ordered to be printed in the RECORD, as follows:

IN THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI, SOUTHERN DISTRICT

Civil action No. S80-0450(N)

UNITED STATES OF AMERICA, PLAINTIFF,

versus

714.42 ACRES OF LAND, MORE OR LESS, SITUATED IN THE COUNTY OF JACKSON, STATE OF MISSISSIPPI, AND PETIT BOIS, INC., ET AL., DEFENDANTS

JUDGMENT

This action came on for trial before the Court, and the issues having been duly tried and a Memorandum Opinion having been duly rendered on March 29, 1982.

It is, therefore, ordered and adjudged That the Defendant owners of the surface rights of subject property recover of the Plaintiff the sum of Six Million One Hundred Twenty Thousand and No/100 Dollars ($6,120,000.00) and all costs of Court accrued herein.

It is further ordered and adjudged That in addition to the foregoing amounts said Defendants shall be entitled to interest thereon at the rate of Fourteen and One-half percent (14.5%) per annum from and after May 16, 1980, up to and including the date of payment, with Plaintiff being given the benefit of deposits heretofore made, with any interest earned thereon while in the Court Clerk's possession to be payable to the Defendants.

It is further ordered and adjudged That the Findings of Fact and Conclusion of Law contained in the Memorandum Opinion of this Court dated March 29, 1982, should be, and are hereby made a part of this Judgment.

It is further ordered and adjudged That pursuant to Rule 54B, Federal Rules of Civil Procedure, that notwithstanding the fact that the interest of the owners of the minerals have not been adjudicated by the Court, there is no just reason for delay in entry of this Court's Judgment herein in favor of the owners of the surface rights of the subject property.

Mr. COCHRAN. I also ask unanimous consent, Mr. President, that a copy of the court's order in the case dated May 4, 1983, be included at this point in the RECORD.

There being on objection, the order was ordered to be printed in the RECORD, as follows:

IN THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI, SOUTHERN DISTRICT

United States of America, Plaintiff, versus *717.42 acres of land, more or less, stituate in the county of Jackson, State of Mississippi, and Petit Bois, Inc., et al*, Defendants

Civil Action No. S80-0450(N)

ORDER

This cause came on to be heard on Motion to Quash Writ of Execution filed by the United States of America, wherein the United States of America moved to quash a writ of execution issued at the request of the Defendants in this cause, which writ of execution sought to enforce the judgment entered in this cause by judicial sale of Ship, Horn and Petit Bois Islands, and the Gulf Islands National Seashore Headquarters Facilities at Ocean Springs, Mississippi. The Court having been fully informed in the premises, and having reviewed the Briefs and Affidavits of all parties, and having heard argument, finds that based upon representations of the United States of America to the effect that the United States of America, acting through the Department of Interior, will probably have sufficient funds appropriated by Congress beginning at the first of the 1984 fiscal year, which begins October 1, 1983, it appears to the Court that this judgment will probably be satisfied in full during the month of October, 1983.

The Court therefore finds that the Motion to Quash Execution should be granted subject, however, to the right of the Defendants to petition this court for relief in collection of the judgment, including execution if they so choose, if said judgment is not satisfied in full by October 31, 1983. The Court finds that should said judgment not be satisfied by October 31, 1983, then the Defendants will have full right to open up all avenues to collect said judgment, and this ruling on this Motion will be no bar to any such proceeding. It is therefore:

Ordered, adjudged and decreed that the Motion of the United States of America to Quash Execution be, and the same hereby is, sustained, subject to the right of the Defendants to pursue collection of this judgment in any form they may deem appropriate if the same is not paid by October 31, 1983. It is further:

Ordered, adjudged and decreed that if the Judgment is not paid by October 31, 1983, then this matter will be reopened for consideration of Defendant's request for execution of other appropriate relief.

Mr. COCHRAN. Mr. President, one final word, if I may, about the appraisals that are involved in the case. In any condemnation proceeding, as we all know, there are differences in the testimony of witnesses. There was an appraisal that was included in the case that stated a value of some $330,000 for the property in question. That was

a witness called by the Government. There were other witnesses who testified in this case, and it was the testimony of other witnesses that the district judge in his wisdom chose to believe, finding their evidence and testimony to be more credible as to value in the case.

The Government has had an opportunity to take an appeal from that judgment and argue that the judgment was erroneously rendered or was not supported by the evidence, but that appeal has been dismissed.

I am hoping, Mr. President, in view of the opposition of the chairman to including the amount in the bill at this point that I could at least get some indication of an interest in considering in conference to receding to the position of the House, carefully considering the reasons why the House has included the money in its bill. I want some assurance that it would be possible at least that the Senate might go along with the House version in conference. If I could have such an assurance, this Senator would be willing, if others have no objection, to not push for a vote on this amendment.

Mr. HATFIELD. The Senator from Mississippi, I can assure, will be named as a conferee. I will certainly make sure he is on the conferee list so that the matter can be again aired in the conference with the House. Again, I want to emphasize the simple point that I support the Senator. I want to make sure that we have all the bases covered and all the questions answered so that whatever action we take cannot be considered precipitous or premature in light of some of the questions that have been raised. Right or wrong, the questions are still before us, directly and indirectly. So I want to assure the Senator I will work with and support him in every way I can to see this to completion in the time frame of these questions.

Mr. COCHRAN. Mr. President, with that assurance, I withdraw the amendment.

I thank the chairman of the committee.

The amendment is withdrawn.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the pending committee amendments and the D'Amato amendment be temporarily set aside in order that I may offer an amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 1362

(Purpose: To limit the use of funds appropriated by this act to indemnify provisions in certain Government contracts)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 1362.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following new section:

SEC. . Notwithstanding any other provision of this Act, funds appropriated by this Act may not be used to indemnify any person (including costs of legal fees), pursuant to any contract with the United States, for amounts paid by such person to the United States by reason of any action of the Internal Revenue Service.

Mr. METZENBAUM. Mr. President, I have no particular debate to offer in connection with this amendment. It relates to a previous subject I have debated. I felt that it should be pending at the desk in the event there is a unanimous-consent agreement as to what further amendments can be offered.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. STENNIS addressed the Chair.

The PRESIDING OFFICER (Mr. COCHRAN). The Senator from Mississippi.

Mr. STENNIS. Mr. President, I say to the chairman that I propose to call the Members on this side of the aisle who are expected to be here to present their amendments. The chairman has called out the names of three Members. As I understand it, they were to be here by 1 p.m.

Mr. HATFIELD. Twelve noon.

Mr. STENNIS. I think we should move along. We will have to call them and tell them we are waiting for them.

Mr. HATFIELD. Would the Senator consider calling up amendments and tabling them?

Mr. STENNIS. No, I would rather not do that.

Mr. HATFIELD. I will call up the ones on the Senator's side, if he will call up the ones on my side.

Mr. STENNIS. I think they will come to the floor.

Mr. HATFIELD. Mr. President, the distinguished comanager of the bill has raised a very good point, because last night I did inform Senator BAUCUS, Senator GARN, and other Senators that they could take up their amendments between 11:30 a.m. and 1 p.m. Some of them indicated that they would be here at that time. None of them has shown up. I will read the names: Senators BUMPERS, ARMSTRONG, BAUCUS, MELCHER, MOYNIHAN, TSONGAS, HATCH, and KASSEBAUM.

I ask unanimous consent that the D'Amato amendment be temporarily laid aside and that the committee amendment be temporarily laid aside so that the Senator from New Hampshire may offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1363

(Purpose: To provide additional funds to develop needed academic facilities)

Mr. RUDMAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. RUDMAN), for himself and Mr. EAGLETON, proposes an amendment numbered 1363.

Mr. RUDMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 72 after line 9, insert the following:

FACILITIES DEVELOPMENT HEALTH RESOURCES AND SERVICES ADMINISTRATION

Health Resources and Services

For an additional amount for "Health resources and services" for the remodeling and expansion of an existing academic health center library in the Pacific Northwest under section 720(a)(1) of the Public Health Service Act, $14,500,000, to remain available until expended; and notwithstanding any other provision of this or any other Act, such amount shall be made available without regard to the provisions of sections 702(b) and 722(a)(1) of the Public Health Service Act.

NATIONAL INSTITUTES OF HEALTH

National Library of Medicine

For an additional amount to carry out section 301 and parts I and J of title III of the Public Health Service Act with respect to conducting research, development, and demonstration projects at an existing academic health center in the Pacific Northwest, $5,900,000 to remain available until expended.

GRANTS FOR CONSTRUCTION OF ACADEMIC FACILITIES

For part B of title VII of the Higher Education Act of 1965, $22,500,000, to remain available until expended, shall be available for two grants in New England except that the provisions of section 721(a)(2) and (b) shall not apply to the funds appropriated under this heading, and the amount of the grants paid from funds appropriated under this heading shall not be subject to any matching requirement contained in section 721(c) of such part and shall be used for two facilities of the type mentioned in section 713(g).

Mr. RUDMAN. Mr. President, the amendment Senator EAGLETON and I are offering provides a total of $42.9 million for three important projects in which the Federal Government has a stake. First, there is $20,400,000 in the bill to support the development of a Biomedical Information Communication Center at the University of Oregon Health Sciences Center in the Pacific Northwest. A recent study by the Association of American Medical Colleges, "Academic Information in the Academic Health Sciences Center: Roles for the Library in Information Management," pointed out the need for academic health sciences centers and hospitals to take immediate steps to implement a network that facilitates the flow of recorded biomedical knowledge throughout their institution in as direct and useful a form as possible. The study further recommended that support should be provided for the development of prototype network systems as well as programs that encourage the rapid integration of information technologies in the learning and practice of the health professions.

The proposed development of a Biomedical Information Communication Center at the Oregon Health Sciences University is an innovative approach in response to a regional need. The model described is in concert with the recommendations of several studies describing future trends in the management of health information. It is hoped that the University of Oregon facility might be one of five regional prototype centers developed over the next few years in the Nation. The concept of five such libraries would provide an opportunity to show how such facilities might be used in different urban and rural environments, responsive to a variety of health information needs.

The recommended project also will be job-creating and this will be particularly helpful to the Oregon economy, one of the most hard-hit by the recession. The committee is advised that the project has the enthusiastic support of health practitioners in the area, and has the interest of local business firms in regard to technological aspects of the project. In addition, the project might help stimulate the creation of industrial activity in the information field in the Pacific Northwest.

Within the total amount made available, the committee has included $14,500,000 for remodeling and expanding the existing library space at the Oregon Health Sciences Center. The estimated total of 82,000 square feet of space will be used to house the computer and other technologies required to develop and maintain an academic health resource network for the State of Oregon. The funds are made available under section 720(a)(1) of the Public Health Service Act.

In addition, $5,900,000 is provided for planning the project and for providing the equipment locally for the research and development to be undertaken, for the networking of the system, and for disseminating equipment to local hospitals and physicians on a demonstration basis. The funds are made available under section 301 and parts I and J of title III of the Public Health Service Act.

In addition to funding for the Biomedical Information Center, a total of $22.5 million is provided under part B of title VII of the Higher Education Act. Of this amount, $7.5 million is directed to Boston College, Boston, Mass., for the purpose of assisting in the completion of construction of its Central Research Library. This central library is the cornerstone of the university's campus and rounds out 70 years of planned growth and development. It will house the central collection of the university and provide study and research facilities critical to the academic enterprise. Libraries of the college are a major depository of government documents used by both the university community and the broader general public.

The remaining $15,000,000 is for the purpose of constructing a Center for Advanced Technology Development at the University of New Hampshire. This project will enable the university to consolidate and modernize its space science and marine research facilities, a step which will greatly improve the efficacy of, and the return on, the Federal Government's substantial research investment at the institution. It should be noted that, even without the appropriation, the university could recover much of the cost of this construction from the Federal Government through the indirect cost component of Federal research grants and, therefore, that the actual cost of this provision is much less than $15,000,000.

The proposed amendment includes all the necessary waivers to insure that the Department of Education can fund the projects in line with the intent of the Congress. The Department is prohibited from holding the Federal share of the project to 50 percent and from requiring the Boston College or the University of New Hampshire to contribute any of their own funds. Since both facilities will be combined graduate and undergraduate facilities, and since part B appears to be limited to graduate facilities, specific language is included to insure that the Department has the legal authority and will make the grants to the combined facilities. Finally, section 712(a)(2), relating to interstate distribution of funds, and section 712(b), relating to the establishment of a panel of experts to give advice, are waived.

In conclusion, Mr. President, I reiterate that this $42.9 million appropriation is to fund three specific projects. All three will represent a continued affirmation of the Government's necessary role in education and address projects with which there is direct, Federal contact. The amendment will help improve the research and high technology capability of the United States, and I hope and expect that it will be accepted in conference by the other body.

Mr. President, this is a noncontroversial amendment. It is my understanding that it has been cleared on both sides.

Mr. HATFIELD. Mr. President, the amendment of my distinguished colleague from New Hampshire, Senator RUDMAN, includes $20,400,000 for the development of a Biomedical Information Communication Center at the University of Oregon Health Sciences Center in the Pacific Northwest. It is an amendment I fully support.

A recent study by the Association of American Medical Colleges entitled, "Academic Information in the Academic Health Sciences Center: Roles for the Library in Information Management," pointed out the need for academic health sciences centers and hospitals to take immediate steps to implement a network that facilitates the flow of recorded biomedical knowledge throughout their institution in as direct and useful a form as possible.

This study further recommended that support should be provided for the development of prototype network systems as well as programs that encourage the rapid integration of information technologies in the learning and practice of the health professions.

The proposed development of a Biomedical Information Communication Center at the Oregon Health Sciences University is an innovative approach in response to a regional need. The model described is in concert with the recommendations of several studies describing future trends in the management of health information. It is hoped that the University of Oregon facility could be one of five regional prototype centers developed over the next few years in the Nation.

The concept of five such libraries would provide an opportunity to show how such facilities can be used in different urban and rural environments and be responsive to a variety of health information needs.

The recommended project also will be job creating and this will be particularly helpful to the Oregon economy, one of the most hard hit by the recession. The committee is advised that the project has the enthusiastic support of health practitioners in the area, and has the interest of local business firms in regard to technological aspects of the project. In addition, the

project could help to stimulate the creation of industrial activity in the information field in the Pacific Northwest.

Within the total amount made available, the committee has included $14,500,000 for remodeling and expanding the existing library space at the Oregon Health Sciences Center. The estimated total of 82,000 square feet of space will be used to house the computer and other technologies required to develop and maintain an academic health resource network for the State of Oregon. The funds are made available under section 720(a)(1) of the Public Health Service Act.

In addition, $5,900,000 is provided for planning the project and for providing the equipment locally for the research and development to be undertaken, for the networking of the system, and for disseminating equipment to local hospitals and physicians on a demonstration basis. The funds are made availabale to the Oregon Health Sciences Center under section 301 and parts I and J of title III of the Public Health Service Act.

Mr. President, Senator PROXMIRE, on the minority side, is aware of this amendment and does not oppose it, and we accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1363) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, if we could handle 18 more amendments with that brevity, we would be through with this bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. RUDMAN). Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent to temporarily lay aside the D'Amato amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent to lay aside temporarily the committee amendment in order that the Senator from Kansas may offer an amendment or a colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kansas is recognized.

AMENDMENT NO. 1364

Mrs. KASSEBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mrs. KASSEBAUM), for herself, Mr. DANFORTH, Mr. EAGLETON, Mr. DIXON, and Mr. BOREN, proposes an amendment numbered 1364.

At the appropriate place in the bill p. 87, above line 6, add the following new material: "Rock Island Labor Assistance, For employee protection as authorized by the Rock Island Railroad Transition and Employee Assistance Act, as amended, (45 USC 1001, et seq.), $35 million to remain available until expended."

Mrs. KASSEBAUM. Mr. President, I rise today to discuss an amendment dealing with the Rock Island Railroad. I add Mr. DANFORTH, EAGLETON, DIXON, and BOREN as cosponsors.

As many of my colleagues well know, the Rock Island Railroad was determined to be cashless in September 1979. That simple statement belies the tremendous turmoil and hardship that the bankruptcy of the Rock Island caused throughout the Midwest. When directed service ended in 1980, a total of 9,700 people had lost their jobs. Large numbers of shippers were left without service, and businesses suffered as higher cost alternatives were found. Legitimate claims for damages and back pay went unpaid for long periods of time. Towns became concerned at the loss of employment and their ability to attract businesses without adequate rail service.

The process of repairing the damage caused by the Rock Island bankruptcy has been a long one. Perhaps the most emotionally draining part of the problem has been the extreme hardship inflicted upon the workers who lost their jobs as a result of the Rock's demise. Many of these people, with years of loyal railroad service, remain unemployed today. They literally were left with nothing when the railroad ceased operations.

A number of different approaches were tried in order to get some compensation and retraining allowances into the hands of the former Rock Island employees. Finally, Congress passed the Rail Safety and Service Improvement Act of 1982. This legislation, passed late last year, authorized 35 million dollars' worth of employee protection funds for people who were adversely affected by the Rock Island bankruptcy. The legislation also directed the Department of Transportation to devise a plan for the distribution of this money. The DOT issued such a plan in April of this year.

It now only remains for Congress to appropriate this $35 million so that the former workers can receive the benefits authorized by Congress. The amendment I have sent forward today would provide for that appropriation as part of the 1983 supplemental. I understand that the House has included the $35 million as part of the 1984 DOT appropriations bill. I can see no reason to make these former workers wait for what could be as much as another year to receive their benefits. This money is needed now to allow them to help rebuild their lives. Naturally, if appropriated now, the money could be taken out of the 1984 DOT bill.

Mr. DOLE. Mr. President, will the Senator from Kansas yeild?

Mrs. KASSEBAUM. I yield.

Mr. DOLE. I commend my colleague from Kansas, Mrs. KASSEBAUM.

Mr. President, when the transportation appropriations bill is considered, I will join my distinguished colleague from Kansas in making sure we resolve, again, the labor protection questions and problems flowing from the Bankruptcy of the Rock Island Railroad several years ago. Senator KASSEBAUM has ably traced the history of our attempts to help those left out in the cold when the railroad folded. But Mr. President, neither Senator KASSEBAUM nor this Senator can adequately convey the toll that the collapse of the railroad has had on the families and communities located along the old Rock Island Line. In many cases, the economy of entire communities had been based on the railroad. Many people had located originally only because of the presence of the railroad. With the railroad in the hands of bankruptcy trustees, these people had no option but to relocate in other towns and communities—in different lines of work.

Mr. President, the employees of the Rock Island have been infinitely patient. With Senator HATFIELD's accommodating attitude already displayed, this Senator is confident that the final chapter to this story will indeed be written in the next few weeks.

(By request of Mrs. KASSEBAUM, the following statement was ordered to be printed in the RECORD:)

● Mr. DANFORTH. Mr. President, I wish to offer my support for the amendment offered by my colleague from the State of Kansas, Senator KASSEBAUM. This amendment would provide $35 million in appropriations to assist employees of the Rock Island Railroad who lost their jobs when that railroad stopped operating.

I fully agree with Senator KASSEBAUM that this funding is necessary to alleviate the hardship experienced by these employees. Further, I agree that there is no reason to delay this assistance for another year. Also, I want to point out to my colleagues that this funding is clearly required in order for Congress to make good on its promise to help these employees. This promise dates back to 1980, when Congress

first passed legislation authorizing assistance for these employees. This legislation was later struck down by the courts. In December 1982, Congress passed the Rail Safety and Service Improvement Act of 1982, which included a revised version of the Rock Island labor protection program. When Congress passed this legislation, it was with the understanding that this assistance was necessary, fair, and reasonable.

I urge my colleagues to support this amendment. It provides vital assistance for these employees and demonstrates Congress commitment to help them.●

● Mr. BOREN. Mr. President, I am honored to add my support as a cosponsor of this amendment offered by my good friend from Kansas, Senator KASSEBAUM. This amendment is the culmination of long and arduous efforts to provide severance pay and other benefits for those former Rock Island employees who were adversely affected by that railroad's bankruptcy.

Since March 1980, when the directed rail carrier ceased operations over the Rock Island lines, Congress has made several attempts to compensate these employees, only to be frustrated in those efforts. Finally, last year, Congress authorized the expenditure of $35 million for employee protection benefits. Now all that remains is for us to pass this amendment to the supplemental appropriations bill which will appropriate the already authorized $35 million.

It has been almost 4 years since the Rock Island ceased operations in August 1979; 4 years in which these former railroad employees have suffered through periods of anticipation and despair waiting for Congress to do something to help them.

Mr. President, this is our chance to help several thousand former Rock Island employees who have been unable to find other qualified railroad employment.

The Federal Railroad Administration, the Railroad Retirement Board, and others have done their part to establish the procedure for distributing these benefits. It is now time for us to act so that these former railroad employees will not have to wait any longer for the benefits they deserve.

I commend Senator KASSEBAUM for offering this amendment and for all the hard work she has done to help these former employees. I urge my other colleagues to join us in supporting this amendment.●

● Mr. EAGLETON. Mr. President, Congress has been wrangling with a Rock Island labor assistance package since 1980 when a crippling strike and a pending bankruptcy totally shut down the railroad. The railroad ceased to operate on its own in September 1979 when it became cashless. Shortly thereafter, a majority of its 10,000 employees lost their jobs.

Since that time, approximately half of the former Rock Island employees have returned to work as portions of the line were sold and returned to service. Needless to say, that has been a slow and cumbersome process and many of those who went back to work were forced to relocate their families or take jobs with less seniority than they had spent years achieving. Their lives were completely disrupted. However, some 3,000 are still without work today, and given the unemployment situation and the state of the economy in the Midwest, prospects for locating work either with a rail company or in some other field are slim. In addition, many of these people have spent their entire lives working for the railroads. Now they have found themselves without a job and without jobs skills to enter an alternate field.

In 1980, Congress enacted the Rock Island Transition and Employee Assistance Act, which contained a provision requiring the trustee of the Rock Island to pay limited labor compensation as an expense of the administration of the estate. Because of legal challenges, no payments were made and the provision was eventually declared unconstitutional.

Last year, Congress made another attempt to provide these former Rock Island employees some assistance. Fortunately, this time we were successful in overcoming the constitutional objections. The only obstacle now is the necessary appropriation of funds authorized in the 1982 Rail Safety and Service Improvement Act.

There is now a program in place and all concerned parties are in agreement on the distribution of the funds.

These people have been waiting since 1979 for this assistance—to ask them to wait any longer is unreasonable. The unemployment situation is not going to resolve itself in the near future. We need to disburse these retraining benefits and subsistence allowances immediately to allow the former Rock Island employees to provide for their families and put their lives in order. we must put an end to their hardships.

Mr. President, I hope my colleagues can appreciate the urgency involved here and I ask them to support the Kassebaum amendment.●

Mrs. KASSEBAUM. Mr. President, I wish to further speak at this point about the amendment, which has been sent to the desk, on behalf of myself, Senator DANFORTH, Senator EAGLETON, Senator DIXON, and Senator BOREN.

Mr. President, in regard to this amendment, what it does is address an issue that resulted from the bankruptcy of the Rock Island Railroad.

The funds in the amount of $35 million have been authorized as benefits for Rock Island employees who have suffered hardships and layoffs since that happened in 1979. It has caused tremendous turmoil in those States in which the Rock Island served.

With the authorization and the benefit plan that has been drawn up by the Department of Transportation, it was hoped that we could address the question on the supplemental appropriations bill.

In discussing this with the chairman, I have realized that it imposes problems on the supplemental but have also in talking with him realized that the 1984 appropriations bill will be coming through soon and have the assurance of not only the Senator from Oregon (Mr. HATFIELD) but the subcommittee chairman, Mr. ANDREWS, that this will be taken care of in the 1984 appropriation bill.

With that assurance, I will withdraw that amendment at this time but only on the understanding that it will be taken care of and addressed at that time, and I wish the chairman's comments on that.

Mr. HATFIELD. Mr. President, the Senator from Kansas (Mrs. KASSEBAUM) has certainly been diligent in pursuing this particular project. I commend her for it. In fact, she might be interested to know that I received a call in my field office in Portland yesterday asking why this money had not been appropriated before so at least there is at least one Rock Island employee in my State of Oregon. I do not know how he got out there.

Mrs. KASSEBAUM. He was probably calling from Kansas.

Mr. HATFIELD. But I wish to assure the Senator that the House Subcommittee on Transportation of the House Appropriations Committee will be marking their bill up next week in the full committee and this project is included in the 1984 transportation appropriation subcommittee bill on the House side.

I have discussed the matter with the chairman of the Transportation Subcommittee of the Senate Appropriations Committee, Senator ANDREWS of North Dakota. Senator ANDREWS has stated to me that he expects to have it placed in the Senate bill so that it would, therefore, not be a conferenceable item because we would have it in bills assuming it remains through the floor action and full committee markup. I know of no reason to believe it would not be expected to remain in that.

So if the Senator could withhold pursuing this on this particular vehicle at this time I do not think she is going to be really behind schedule more than a month or 6 weeks on getting this project approved and underway.

But it would be very helpful to take it on the regular 1984 bill as I indicated before. We are facing a proposition

of having to reduce this bill that we now have, this supplemental, at least in the neighborhood of $600 million in the conference and every add-on becomes really vulnerable to being dropped in conference as one of those add-ons that we could just reduce this total bill size.

So I think there would be far more success in pursuing it in the regular appropriations bill.

I hate to see the Senator from Kansas have it adopted here and then having it dropped in conference whereby we have much better chances, the odds are much better, of getting it through in a month or 6 weeks from now in a regular appropriations bill.

Mrs. KASSEBAUM. Mr. President, I appreciate those comments, and on that assurance of the chairman I withdraw my amendment.

The amendment is withdrawn.

Mr. STENNIS. Mr. President, addressing myself primarily to the chairman of the committee who wants to arrange for additional amendments to be taken up.

Mr. BAUCUS is on his way here now from his office and will be ready to proceed with an amendment as soon as he arrives.

We find that the Senator from Arkansas (Mr. BUMPERS) is away for the day.

Mr. HATFIELD. Mr. BUMPERS is away for the day?

Mr. STENNIS. He is away for the day.

Mr. HATFIELD. Is someone else going to handle his amendment?

Mr. STENNIS. I have not gotten that far yet on it, but I will go back to him.

I have a report on another one.

There is Mr. BOREN's amendment. Will the Chair indulge me just a moment?

The PRESIDING OFFICER. Yes.

Mr. STENNIS. Mr. President, I say to the distinguished Senator from Oregon that accounts for the three names that he had mentioned. Mr. BAUCUS will be here momentarily, I am sure.

I will make another call regarding these other two, except Mr. BUMPERS, and I understood he was out of the city

Mr. President, I yield the floor.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I have a statement to make as the manager of the bill. I am hopeful all of the offices are listening, because I am going to leave the floor at 1:30 p.m. and ask the leadership to either bring the bill to a close at that time or to propose a unanimous-consent agreement that no more amendments will be accepted.

We have a series of amendments here that have been indicated on a list that we have set up by Members of the Senate that they expect to present. Senators are not on the floor to present them. I have more important things to do. I am sure other Senators on the floor have more important things to do than to sit here waiting for Senators to make up their merry minds to come over here to present an amendment.

So, at 1:30 p.m., I am going to ask the leadership to cut off the amendment of Senators MATTINGLY, BUMPERS, ARMSTRONG, TOWER, THURMOND, MELCHER, MOYNIHAN, BOREN, HATCH, QUAYLE, BOSCHWITZ, and WALLOP if they are not here. As far as I am concerned, those amendment can be vitiated as far as our list is concerned and I would ask that there be no more amendments offered for this bill.

We have made telephone calls. We have made statements urging Senators to get to the floor to offer these amendments. I think it is highly inconsiderate for Senators to withhold their amendments when the managers of the bill are here waiting to deal with those amendments.

We are all busy. We all have schedules to keep. I cannot accept the proposition that Senators have other business more important than amendments. Obviously, the amendments are not terribly important or they would be here.

I might say, I am going to make a judgment on the importance of those amendments as far as whether we should fight for them in the conference. If a Senator does not think that much about his amendment to be here on the floor to offer it within a reasonable period of time, it is obviously not terribly important. So why should we, even if it is adopted, make any efforts to hold it in the conference?

Now, these may be harsh words, but I do feel we have been more than patient over all the period that we were in session yesterday, last night, and the fact that this bill has to be held for the convenience of Senators for 4 days on the floor—4 days—is absolutely unreasonable to begin with, and then not to be able to handle the business of the Senate because Senators just do find it convenient to their personal schedules to come over here and offer their amendment.

Mr. STENNIS. Mr. President, will the chairman yield?

Mr. HATFIELD. Yes.

Mr. STENNIS. I have an announcement to make. Senator BAUCUS is here, and he is ready to proceed with his amendment, as I understand it. I thank him for coming right on it. Mr. BOREN is on his way and will be here in 30 minutes.

I yield to the Senator from Montana.

Mr. BAUCUS. Mr. President, if the Senator will yield, the Senator from Montana is ready. It is my understanding the Senator from Mississippi (Mr. COCHRAN) may wish to be involved with this amendment. I do not know what the wishes of the Senator from Mississippi or the Senator from Oregon are, but I am willing to proceed at this time.

Mr. STENNIS. That is fine.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the D'Amato amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask the Chair now to set aside the pending committee amendment temporarily so that the Senator from Montana (Mr. BAUCUS) may offer an amendment.

The PRESIDING OFFICER. The committee amendment is set aside. The Senator from Montana.

AMENDMENT NO. 1365

(Purpose: To provide funds for making and insuring loans to certain farm supply businesses and cooperatives which have been adversely affected by the payment-in-kind program)

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana (Mr. BAUCUS) proposes an amendment numbered 1365.

Mr. BAUCUS. Mr. President, I ask unanimous consent that further reading of the amendement be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, between lines 10 and 11, insert the following new paragraph:

"For making and insuring loans pursuant to section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) to businesses and cooperatives which are (1) engaged in the business of furnishing to farmers and ranchers machinery, supplies, and services directly related to the production of commodities diverted from production under payment-in-kind land diversion programs carried out by the Secretary of Agriculture, and (2) experiencing substantial economic hardship directly attributable to the operation of such programs, $100,000,000 to remain available until September 30, 1984.".

Mr. STENNIS. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I wish to join in the words of the Senator from Oregon. I think he is absolutely

right. If Senators do not have amendments ready at this time, after giving full notice to those Senators who have indicated they may have amendments, the Senator from Oregon and the Senator from Mississippi should move for third reading.

Mr. President, I have been waiting for a letter from the Farmers Home Administration before proceeding with my amendment. I now have such a letter and I am ready to proceed with the amendment.

Mr. President, there is a clear need for Congress to address the impact of the payment-in-kind program on farm supply businesses.

The U.S. Department of Agriculture has projected purchase declines throughout the farm supply industry this year. For example:

Fertilizer use is expected to decline by 12 to 14 percent—with use on corn and sorghum down 25-27 percent. USDA admits that some production facilities may close and that fertilizer manufacturers' revenues will decline by more than 12 to 14 percent.

Farm machinery purchases are estimated to drop 2 to 3 percent. This is on top of a decline in sales that has been occurring since 1979 due to high interest rates.

Demand for maintenance, parts and repairs of farm equipment is expected to decrease by 12 to 15 percent.

Use of pesticides is expected to drop 13 to 17 percent.

Cotton-ginning firms and rice-milling firms could see a 20 to 25 percent decline in demand for their services.

In Montana, the Hardware & Implement Dealers Association has told me that 12 of their members have already gone out of business in the past 4 months.

Mr. President, I believe the Federal Government should help these farm-supply businesses who had little chance to plan ahead for the adverse impacts of the PIK program. The amendment I am proposing would do just that.

USDA now has the authority to grant guaranteed loans to farm supply businesses under the business and industry program of the Farmers Home Administration (FmHA).

Yet, FmHA has obligated only a small fraction of the $300 million appropriated for this program. We are only 3 months from the end of the fiscal year and I am told that only $40 million has been obligated.

My amendment addresses the growing need for assistance and the lack of action on the part of FmHA.

Mr. President, thanks to the continued efforts of the distinguished chairman of the Agriculture Appropriations Subcommittee (Mr. COCHRAN) the Farmers Home Administration has agreed to make the obligating of these funds a top priority.

FmHA has also agreed to publicize their intention of making this loan guarantee program available to farm supply businesses that need assistance.

Mr. President, I ask unanimous consent that a copy of the notice from the FmHA be printed in the RECORD.

There being no objection, the notice was ordered to be printed in the RECORD, as follows:

JUNE 10, 1983.

Subject: Businesses Affected by the Payment-in-Kind (PIK) Program.

To: All State Directors, FmHA.

Some concern has been expressed that agricultural service and support businesses in some areas may be experiencing temporary reductions in sales. These may include grain elevators, feed mills, farm machinery dealerships and fertilizer distributors, among others. Any inquiries for assistance should be given particular attention.

We believe that we can assist such creditworthy businesses to weather the temporary setback in sales that may have resulted from lower overall farm income in past years and reduction in planted acres because of PIK. This can be accomplished through the business and industry program.

CHARLES W. SHUMAN,
Administrator.

Mr. BAUCUS. Mr. President, I again want to commend the Senator from Mississippi for his diligent efforts on behalf of farm supply businesses facing financial difficulties as a result of the PIK program.

Mr. President, at this point I am prepared to yield to whoever wishes to speak on the amendment.

The PRESIDING OFFICER. Who seeks recognition?

Mr. STENNIS. Mr. President, I do not know of anyone else to speak for the amendment. I do not know if there is anyone who wishes to speak in opposition. Does the Senator from Connecticut wish to speak in opposition to this amendment?

Mr. WEICKER. Mr. President, it is my understanding the Administration is looking at the problems raised by the distinguished Senator from Montana. They are aware of the points that he has made. I hope, at least at this time, until we have a further clarification of the matter, that he would withhold in what he is offering on the floor.

Mr. BAUCUS. Mr. President, I appreciate the comments of the Senator from Connecticut. It is my intention to withdraw the amendment.

Let me say that I do have a notice just received today from the Farmers Home Administration, the same notice that I just asked to have printed in the RECORD, which indicates that the Farmers Home Administration is willing to stand ready to provide business and industry loan guarantees to firms who are adversely impacted by the PIK program, the point being that FmHA does stand ready to make those guaranteed loans available.

I thank the Senator from Connecticut.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KASTEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

KASTEN AMENDMENT: OPPOSITION TO NATIONAL FOREST LANDS SALE

Mr. KASTEN. Mr. President, I would like to call the Senate's attention to an amendment which was unanimously adopted by the full Appropriations Committee during markup of this legislation. My amendment clearly expresses the Senate's opposition to the sale of any significant portion of our national forest lands.

It is imperative that we protect our national forests. We must continue the solid, consistent management of our national forest lands, and we cannot allow a reversal of carefully developed management practices to meet short-term needs. Such a reversal would be short-sighted, and future generations of Americans would have to pay for our actions today.

Our national forest system was established almost a century ago with the adoption of the Organic Administration Act of 1897. This act gave the President the authority to establish forest preserves, which later became national forests, by withdrawing property from the public domain. The Organic Act was the culmination of many years of work to increase protection for important watersheds and timber resources. It also provided for the use of timber or mineral resources on forest lands so long as the forests were not permanently disrupted.

In 1911, Congress adopted the Weeks Act which authorized and directed the Secretary of Agriculture to purchase cut-over or denuded lands for inclusion in the national forest. Like the Organic Act, the new law was intended to protect watersheds and assure the availability of an adequate supply of timber. This law, however, is noteworthy because it granted the authority to establish national forests by purchasing lands. In the Eastern United States, and in my home State of Wisconsin, national forests could now be established. In the East, public domain lands had long since been disposed of. The Weeks Act became the mechanism for establishing most of the national forest lands in the Eastern United States.

During the 1920's the principal of multiple use of these public lands was

codified by law. This action directed forest managers to provide for a wide range of uses of our national forests. Forest lands were no longer to be used for an exclusive purpose, but to help meet a variety of needs such as recreation, wildlife habitat protection, timber production, mineral development, and watershed protection.

Mr. President, I have briefly outlined the history of how our national forest system was created in order to illustrate our Nation's long-term commitment to resource protection and conservation.

Over the past century our national forests have come to play a critical role in protecting an important part of our Nation's heritage. We cannot allow these careful management policies, which have been forged over an extensive period of time, to be suddenly reversed.

I believe that it is very important for the Senate to send a strong message expressing its opposition to the sale of these forest lands. Selling a significant portion of our national forests would be inconsistent with a long history of protecting these lands.

My amendment will clearly point out how strongly the Congress feels about protecting our national forest. I believe this amendment will tell those calling for the disposal of this land that Congress and the American people will not stand for such action. Through this amendment, I hope we can head off future attacks on our national forests.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MATTINGLY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ARMSTRONG). Without objection, it is so ordered.

AMENDMENT NO. 1366

Mr. MATTINGLY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Georgia (Mr. MATTINGLY), for himself, Mr. THURMOND, Mr. TOWER, Mr. JACKSON, Mr. HOLLINGS, and Mr. NUNN, proposes an amendment numbered 1366.

On page 37, strike lines 1 through 23 and insert in lieu thereof the following:

"None of the funds appropriated by this Act, or by any other Act, or by any other provision of law, shall be available for the purpose of restarting the L-Reactor at the Savannah River Plant, Aiken, South Carolina, until the Department of Energy completes an Environmental Impact Statement pursuant to section 102(2)c of the National Environmental Policy Act of 1969. For purposes of this paragraph the term "restarting" shall mean any activity related to the operation of the L-Reactor that would load fuel into the reactor core, achieve criticality, generate fission products within the reactor, or discharge cooling water from either testing or operations into Steel Creek.

Consistent with the National Environmental Policy Act of 1969, and in consultation with State officials in South Carolina and Georgia, the preparation and completion of the Environmental Impact Statement called for in this paragraph shall be expedited. The Secretary of Energy may reduce the public comment period, except that the public comment period shall not be reduced to less than forty-five days and the Secretary shall provide his Record of Decision, based upon the completed Environmental Impact Statement, not sooner than December 1, 1983, and not later than January 1, 1984.

The PRESIDING OFFICER. The Chair points out that it is necessary for the manager of the bill to set aside the pending committee amendment prior to the unanimous-consent agreement. The Senator from Connecticut is recognized.

Mr. WEICKER. I ask the Chair——

The PRESIDING OFFICER. The Chair points out there is also a D'Amato amendment pending that would have to be also laid aside.

Mr. WEICKER. We have the D'Amato amendment pending before us and also the committee amendment pending before us?

The PRESIDING OFFICER. The Senator is correct.

Mr. WEICKER. They would both have to be laid aside?

The PRESIDING OFFICER. That is correct.

Mr. WEICKER. Mr. President, I ask unanimous consent that the committee amendment and the D'Amato amendment be laid aside so that the distinguished Senator from Georgia may offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Georgia is recognized.

Mr. MATTINGLY. Mr. President, the amendment being offered here today is substantially the same as the Hollings/Mattingly amendment on the L-reactor that passed the Appropriations Committee without a dissenting vote. That required the Department of Energy to complete an expedited environmental impact statement before the L-reactor could be restarted.

The major change in this amendment is the addition of a deadline. I have no objection to the January 1, 1984, deadline. In fact, I welcome a quick but thorough study. I have always felt that an expedited EIS could be completed rapidly. It has been the DOE that has expressed fears of an 18-month delay. The addition of the date just puts into the law the certainty there will not be a long drawn out process.

My office has been in touch with environmentalists from such groups as the natural resources defense council and the Georgia conservancy. They also see no problem with this timeframe.

Mr. President, I want it clearly understood that I believe strongly in the need for the material that will be produced by the L-reactor. I also believe that this material should be produced at the Savannah River plant.

But as important as this facility is to our strategic defense program, we cannot take risks with the environment. This is especially true at the Savannah River plant for it sits on top of the Tuscaloosa aquifer that provides water for all of south Georgia and portions of other States. There has already been some minor contamination of the aquifer by ground water at the plant.

This is not something you can play around with. We only have one environment. If we poison it, what are we going to do? Georgians are as patriotic or more so than the citizens of any State in this Union. They will support the production of plutonium by the L-reactor as long as they know it is not going to ruin the water their children and grandchildren will one day drink. That is not too much to ask.

The environmental impact statement should have been initiated at the beginning of this project. It would have been long over and done with by now. That initial mistake has been compounded over and over again during the last year or two. This could serve as a classic object lesson to officials and bureaucrats the world over. It is always less painful to admit and then undo mistakes than it is to stubbornly insist that no mistake has been made.

I commend the chairman of the Armed Services Committee and the ranking minority member for their help in working out this situation. I would also like to commend the two Senators from South Carolina who have both spent many hours studying this complicated problem. Senator THURMOND cordially allowed me to participate in his February hearing in North Augusta on the L-reactor. Senator HOLLINGS spoke forcefully and convincingly for an environmental impact statement when this was considered in the Appropriations Committee. Both have worked hard to balance the concerns about safety with the obvious economic impact the Savannah River plant has on their State.

What is being offered here today provides a mechanism for answering the remaining questions of reasonable citizens living in the area affected by this plant. The EIS should be and can be done thoroughly and carefully even under the accelerated schedule.

I ask my colleagues to join me in supporting this reasonable amendment.

● Mr. TOWER. Mr. President, I am pleased to cosponsor an amendment with my colleagues, Senators JACKSON, MATTINGLY, NUNN, THURMOND, and HOLLINGS, which is in the nature of a perfecting amendment to the provision added during full committee markup by Senators HOLLINGS and MATTINGLY to require an environmental impact statement before the L-reactor at the Savannah River plant, Aiken, S.C., can be restarted.

The L-reactor is critically important to our national security. It will produce plutonium that will be needed in the mid-1980's as we modernize our stockpile of nuclear weapons. There simply is no alternative to restarting the L-reactor.

Given the critical requirement to restart the L-reactor, I am, nonetheless, sympathetic to the concerns of Senators HOLLINGS and MATTINGLY that the restart be done carefully and with adequate concern for potential environmental consequences.

The purpose of the perfecting amendment that is being offered here is to balance the two concerns—national security on the one hand and health and safety concerns on the other hand. The original Hollings/Mattingly provision specified an expedited environmental impact statement. The perfecting amendment simply specifies a schedule for that expedited environment impact statement that will insure that the restart of the L-reactor is not unduly delayed.

Under the perfecting amendment, I would expect the Energy Department to complete an expedited EIS on the following general schedule:

	Days
Preparation of a draft EIS	60–90
Public comment on draft EIS	45
Preparation of final EIS	15
Preparation of a record of decision	30

This would permit restart of the L-reactor shortly after January 1, 1984, and I think warhead production schedules will not be jeopardized with that schedule.

I am pleased that we have been able to reach this compromise. I urge my colleagues to support the amendment.●

Mr. THURMOND. Mr. President, I have joined with Senators TOWER, JACKSON, HOLLINGS, and MATTINGLY in cosponsoring this proposal.

On a number of occasions I have stated, and I reiterate now in the context of this amendment: While timely restart of the L-reactor at the Savannah River plant (SRP) in my State is of critical importance to our national security, we must never take chances with the public's health and safety, or threaten the integrity of our environment. I have been working for many months to achieve both a prompt resumption of reactor operations to meet our defense needs and the fullest measure of environmental protection. Frankly, there has been some difference of opinion among members of the South Carolina and Georgia congressional delegations about this matter. Where a difference of opinion has existed, it has been about the most desirable means of achieving these goals, rather than about any divergence in commitment to environmental protection.

Having studied the many facets of this matter for some time, I have discovered that most of the remaining concerns about the L-reactor restart are founded on misunderstanding, lack of awareness of available factual information or, in some cases, opposition to any activities related to the manufacture of nuclear weapons material. In an effort to bring enlightenment to the situation and air public concerns about the L-reactor and the environmental assessment prepared by the Department of Energy, I arranged for the Senate Armed Services Committee to hold a field hearing in North Augusta, S.C., a few miles from the SRP site. Senator MATTINGLY, in his capacity as a member of the Senate Appropriations Committee, joined me at that hearing, which lasted more than 7 hours.

Subsequently, Senator MATTINGLY and I secured written commitments from Secretary of Energy Hodel to: First, undertake a further public review and hearing process to thoroughly brief the public on plans for the reactor restart and to answer questions from the public; second, conduct further thermal studies for all SRP effluent streams as they impact on the Savannah River; third, conduct comprehensive epidemiological studies associated with the L-reactor restart; and, fourth, operate the L-reactor within the limits set by the environmental assessment or modify operations as necessary to achieve compliance.

In fulfillment of the first of these commitments, the Energy Department has recently held a total of eight additional public hearings at four different locations in South Carolina and Georgia. For the most part, these morning and evening hearings were sparsely attended, perhaps indicating a lack of widespread interest or concern about the reactor restart. I sent a member of my Washington office legislative staff to represent me at each of these eight hearings.

Mr. President, I shall not now take the time of the Senate to detail the full history of this issue. However, I do feel it important to provide this brief background of public participation in the matter, particularly since the major criticism of the environmental assessment voiced at the hearing I chaired and in the media has been the lack of public input. Thus, one of the principal reasons for these nine public hearings was to remedy that alleged deficiency in the environmental assessement.

On the heels of this extensive public participation process and specific commitments regarding SRP operations made by the Secretary of Energy, Senator HOLLINGS proposed his amendment in the Appropriations Committee to now require an environmental impact statement (EIS) before the L-reactor can be restarted. In comparison to that provision, I view the pending amendment as a constructive step toward expediting the EIS process, in order that any remaining questions may be resolved and the reactor restarted with the minimum necessary delay.

Mr. President, I wish to make it clear that I have never opposed, and do not now oppose, doing an environmental impact statement on the L-reactor restart. I have simply taken the position that an EIS is not necessarily required, nor would it be particularly enlightening or productive, considering all the circumstances. My decision to cosponsor this proposal for an expedited EIS is based solely on the fact that it may facilitate restart of the L-reactor with the minimum delay. In my judgment, this is neither a necessary, desirable, nor especially wise means of obtaining the fullest measure of environmental protection.

APPROPRIATENESS OF CONGRESS REQUIRING EIS

I particularly question the appropriateness of Congress making a judgment, on a specific project basis, to require by statute that an EIS be conducted. Just as I have a longstanding concern about executive branch agencies or the courts making policy decisions which exceed statutory authority, so do I also oppose the legislative branch of our Government attempting to make what is essentially a technical and scientific determination delegated by law to the executive agencies. I find it somewhat ironic that some, who pride themselves on their environmental sensitivity and preach strict adherence to the National Environmental Policy Act (NEPA), are so quick to advocate what, in my opinion, amounts to a distortion of that act.

Under NEPA, the executive agency is charged with deciding whether, on a particular project, an EIS should be required. That decision is subject to judicial review, just as the Department of Energy decision not to perform an EIS on the L-reactor restart has been challenged in Federal district court here in Washington, D.C. Are we, through enactment of the Hollings proposal, now establishing a precedent for congressional preemption, on a case-by-case basis, of a decisionmaking process that is particularly better suited for resolution in the other branches of our Government? I have genuine concern, Mr. President, about the wisdom of such action. I also fear

that this procedure has the potential of requiring an EIS whenever there is a clamor for one, regardless of whether there is a real need.

QUESTIONS ABOUT USEFULNESS OF AN EIS

Additionally, while I do not oppose an EIS on the L-reactor restart, I have serious reservations about the usefulness of an EIS on the project at this juncture. Clearly, the National Environmental Policy Act and implementing regulations reflect the intent that an EIS be done when there is a need for additional information about the environmental impact of a particular project. In the case of the L-reactor restart, this project has already been far more intensively and extensively studied than are most for which a full-scale EIS is prepared.

Also, as I pointed out, there have now been extensive opportunities for public comment and participation. In fact, the record of the recently held public hearings will remain open through August 17. In veiw of this record of public involvment, I question whether an EIS will significantly contribute to greater public understanding of the issue. If an EIS is to be required, however, I certainly hope that it will further the goal of alleviating public concerns.

Mr. President, when all is said and done, an EIS is nothing but another study. In this case, environmental impacts of the L-reactor are well-known, for after all, the reactor operated without any damage to public health and safety for 14 years. Moreover, its restart has already been thoroughly studied. I believe the people of South Carolina and Georgia are more interested in actions to protect their health and environment, rather than just another study. The specific commitments made by the Department of Energy to me represent commitments to concrete actions, not only with respect to the L-reactor, but with respect to improving the level of environmental protection at the entire Savannah River plant site.

The State of South Carolina, which had earlier joined in the lawsuit to require an EIS, recently concluded a memorandum of understanding with the Department of Energy, with the objective of reaching a consent decree for terminating the State's involvement in the lawsuit. I am pleased that both the Department of Energy and the attorney general of South Carolina have stated that the specific commitments made by Secretary Hodel to me formed the basis on which the memorandum of understanding was reached. Both the attorney general and the Department of Energy contend that their agreement will accomplish far more in the way of specific actions to protect public health and the environment than would an EIS alone.

EFFECT ON THE MEMORANDUM OF UNDERSTANDING

Mr. President, it is my view that an EIS paper study at this juncture may be, in reality, a step backward from the progress achieved by the State of South Carolina in its carefully negotiated agreement with the Department of Energy. Both the lawyers for the Federal agency and the lawyers for the State acknowledge this. Indeed, the lawyers representing the State confess that an EIS paper study was not really their objective, but they simply wanted leverage to achieve concrete mitigative actions for the entire SRP site, including the L-reactor.

For example, the memorandum of understanding contains specific commitments to mitigate the impact of hot water discharges into all streams within the SRP site, whereas the EIS would only study the thermal impact of the L-reactor. The memorandum of understanding contains a commitment to correct the problem of ground water contamination within the site, whereas the EIS would simply study the problem to the very limited extent that it might be related to the L-reactor restart. The memorandum of understanding enhances State environmental regulatory authority over the entire SRP site, while an EIS affords no such advantage to the State. In short, Mr. President, the memorandum of understanding would have required specific corrective and preventive actions for all SRP operations where deficiencies may exist, whereas the EIS would do no more than further study the environmental impact of one reactor.

Clearly, Mr. President, this comprehensive, negotiated preliminary agreement, built upon the commitments made by DOE to me, is far superior to an L-reactor EIS. Frankly, I am concerned about the effect of an EIS requirement on these negotiations. I have been assured by the Energy Department that the commitments given to me will be honored, and I shall expect them to be carried out as planned; however, the legal effect of requiring an EIS on the additional commitments contained in the memorandum of understanding is in doubt at this time. It is my hope that, regardless of the technical, legal questions, both the Department of Energy and the State of South Carolina will continue their negotiations on the issues of a water discharge permit, ground water pollution containment and cleanup, and related matters. I am sure the sponsors of this EIS amendment do not intend for their proposal to negate real progress that has been made, and I sincerely hope that all parties will go forward in good faith negotiations to insure the maximum degree of environmental and public health protection.

NEED FOR EXPEDITING EIS PROCESS

Mr. President, if the Hollings committee amendment, as modified by the pending proposal, is enacted, it is my hope that it will produce beneficial results. First, because of the critical importance to our national defense of restarting the L-reactor without undue delay, it is essential that any required EIS be expedited as much as reasonably possible. While the preparation of the EIS described in this substitute will delay restart, I hope the delay will not exceed 3 months. Unless the EIS yields unforseen adverse environmental consequences, this should permit restart around the end of this year or early 1984.

Second, the preparation of this expedited EIS, as described in this statutory language, should be viewed by the courts as a congressional mandate in lieu of any EIS that might be required under the National Environmental Policy Act and regulations, thereby rendering moot the pending litigation which seeks to require an EIS. If this congressional action should become law, it is certainly my hope that it will have the effect of moving the project beyond the potential legal obstacle posed by the current lawsuit. Additionally, I fully expect that the series of eight public hearings recently held in South Carolina and Georgia will be deemed to fulfill the requirement of "scoping hearings" preparatory to doing the EIS.

Finally, Mr. President, I hope that all those involved in the pending litigation, and any other affected parties, will use profitably the additional time which an expedited EIS will provide to work out any remaining problems. I cannot overemphasize the importance of progressing with good faith discussions so that this reactor can resume operations at the earliest possible time. If this objective is vigorously pursued, I am confident that our national defense needs can be met reasonably on schedule without any threat to public health, safety or the environment.

As I have indicated, I doubt the wisdom of this present course. It simply is not the kind of well reasoned, informed, productive action that is needed in this situation. I support it soley because it offers an opportunity for this essential national defense project to go forward. Nevertheless, I do reserve the option to support a more desirable approach, should the House and Senate conferees make such a proposal. I am committed to taking every necessary step to see that the public health and safety and the integrity of the environment are protected. Consistent with those objectives, it is essential to our national security that this reactor restart without further delay.

Mr. President, I ask unanimous consent that the following documents relating to this issue be printed in the RECORD at the end of my remarks:

First. Letter dated December 8, 1982, from Senator THURMOND to Environmental Protection Agency Administrator Anne Gorsuch.

Second. Reply from Administrator Gorsuch dated January 28, 1983.

Third. Letter dated February 28, 1983, from Senators THURMOND and MATTINGLY to Secretary of Energy Donald P. Hodel subsequent to February 9, 1983, Armed Services Committee hearing in North Augusta, S.C.

Fourth. Reply from Secretary Hodel dated March 15, 1983.

Fifth. Letter dated March 11, 1983, from Senators THURMOND and MATTINGLY to Secretary Hodel regarding certain questions about L-reactor restart discussed in Environmental Protection Agency internal documents.

Sixth. Reply from Secretary Hodel dated April 20, 1983.

Seventh. Letter dated April 28, 1983, from Secretary Hodel to the attorney general of South Carolina together with memorandum of understanding between the State and the Department of Energy.

Eighth. Letter dated May 13, 1983, from South Carolina Attorney General Medlock to Senator THURMOND with attachment explaining advantages of L-reactor settlement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., December 8, 1982.

Hon. ANNE GORSUCH,
Administrator, Environmental Protection Agency, Washington, D.C.

DEAR MS. GORSUCH: I am concerned that the environmental interests of the people of South Carolina be properly safeguarded with respect to the restart of the L-Reactor at the Savannah River Plant, Aiken, South Carolina. There have been recent press accounts suggesting that the Department of Energy is not complying with the requirements of the National Environmental Policy Act with regard to the proposed Federal action.

I would be deeply grateful if you would conduct an independent analysis of the actions taken by the Department of Energy to date with regard to the restart of the L-Reactor. Specifically, I would like your views on the following questions:

1. Has the Department of Energy complied with the National Environmental Policy Act and the appropriate implementing regulations with respect to their environmental analyses to date?

2. In your view, are adequate precautions being planned in connection with the restart of the L-Reactor to protect the environmental interests of the people in the South Carolina-Georgia vicinity of the plant? I am particularly concerned with the potential impact on the Savannah River water quality and associated marine and wildlife.

I would hope that you could provide me your views by January 31, 1983. Thank you for your prompt attention to this matter.

Sincerely,

STROM THURMOND.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., January 28, 1983.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: Thank you for your letter of December 8, 1982, on the restart of the L-Reactor at the Savannah River Plant, Aiken, South Carolina. Following your request, we have made an analysis of the action taken by the Department of Energy (DOE) in regard to this proposed Federal project.

First, concerning your request for EPA's views on the environmental consequences of the restart of the L-Reactor, I would like to discuss each of six areas of environmental impact individually. The first is the impact of routine radioactive releases on the water in the plant area. Since there are three reactors similar in design to the L-Reactor now in operation in this area, it is very unlikely that the restart of a fourth reactor would substantially increase adverse environmental impacts resulting from increased radioactive releases. The routine discharges of tritium to the river have been and will continue to be monitored. Based on monitoring data and other information supplied through DOE, the amount of radioactive tritium in the water supplies will increase over present levels. The resulting level, it is estimated, will amount to an average of 2,500 or 3,000 picocuries per liter, far below EPA's drinking water standard of 20,000 picocuries per liter. EPA's knowledge of other reactors also indicates that there is no significant environmental hazard from routine radiological releases.

The resuspension of sediments containing some radioactive materials is a second, related question. Some sediment with radioactive cesium will be resuspended and released into the Savannah River. EPA agrees with the Department of Energy's view that cesium will remain chemically bound in the stream or river sediments. Contaminated sediment could move down river through a repeated process of deposition and resuspension. However, the monitoring data suggests that this process is not likely to result in the presence of detectable radioactive cesium in the water supplies of Beaufort-Jasper or Port Wentworth. Most of the cesium would be deposited in the swamp adjacent to the Savannah River Plant. EPA believes there will be no significant environmental hazard from this release.

A third environmental impact discussed in DOE's assessment is the withdrawal of water from the river for reactor cooling. Currently, the Savannah River Plant uses about 456 million gallons of water per day. This withdrawal represents about 7% of the average Savannah River flow. With the restarting of the L-Reactor, an additional 251 million gallons per day of cooling water will be needed. This will result in a total withdrawal of approximately 13% of the River's average flow. These water withdrawals would involve some impingement, or entrainment, of fish, fish eggs, larvae, and other aquatic organisms. We do not believe the impingement, or entrainment, would be significant.

Fourth, the liquid discharges from the L-Reactor to Steel Creek and the river are subject to a permit issued under the MPDES program which has been delegated to South Carolina by EPA. This permit process can establish operating conditions such as requiring sufficient precautions to protect the environment. Since negotiations between the State and DOE concerning this permit and its conditions are underway, I do not feel it is appropriate for EPA as the delegating Agency to publicly comment on this issue, at this time.

Fifth, one of the possible environmental impacts of the proposed thermal discharges will be the impact on certain wetlands in the area. The assessment indicates that the amount of wetlands affected in some degree will approximate a thousand acres (580 acres along Steel Creek and 420 acres along the swamps bordering the river). These wetlands are still impacted as a result of prior operation of the L-Reactor from 1954 to 1968, but there has been some return to earlier conditions since the L-Reactor was placed in a "stand-by" status. If no steps are taken to minimize the impacts of these thermal discharges, hot water would eliminate or impair wildlife and vegetative forms which have started to reappear in this area during the "stand-by" period. The hot water would return the area to its pre-1968 condition.

An additional impact discussed in the Environmental Assessment is the L-Reactor's impact on groundwater underlying the site. According to the Assessment the L-Reactor will discharge wastewater into a presently dry, nearby seepage basin. Supporting facilities would also discharge wastewater into seepage basins. The plant has an extensive groundwater monitoring network and all seepage basins are closely monitored. The plant staff is preparing a comprehensive hydrogeological report to identify existing groundwater problems and propose remedial actions. From this we see that groundwater contamination impacts are being carefully evaluated and appropriate mitigative measures are in the planning stages.

We are also aware of programs of the State of South Carolina and the State of Georgia that concern the Savannah River Plant. The South Carolina Department of Health and Environmental Control (SCDHEC) and the Georgia Department of Natural Resources (GADNR) monitor both the air and water in the surrounding area as well as downstream of the facility. The river is monitored once a month as part of a state-wide surveillance program. The analytical methods used detect radiological contaminants and the associated concentrations. South Carolina plans to monitor the river more frequently once the L-Reactor goes on-line to determine the additional radiological impacts associated with its operation. The results of these monitoring programs are published annually in environmental surveillance reports that can be obtained upon request. In addition to the radiological surveillance programs, the States also have primary authority for their drinking water supplies in accordance with EPA regulations.

As to your procedural inquiry, the Department of Energy's environmental Assessment on the restart of the L-Reactor is a comprehensive document which sets forth a detailed discussion of the expected environmental effects of the proposed project, including a comparison of the anticipated impacts of the post-1984 operation with the environmental impacts of the pre-1968 operation, and indicates no net increase in environmental effects between the two. The En-

vironmental Assessment provides a sufficient basis for the Department of Energy's decision that it was not necessary to prepare an Environmental Impact Statement, particularly in light of the fact that this is a restart operation. Therefore, the Environmental Protection Agency does not question the Department's conclusion that its procedures comply with the pertinent statutory provisions of the National Environmental Policy Act and with regulations issued pursuant to the Act.

I can assure you that we have followed this project very closely from the time the DOE assessment was issued in August 1982. Charles Jeter, our Regional Administrator in Atlanta, Paul Cahill, the Director of EPA's Office of Federal Activities, and Glen Sjoblom, the Director of EPA's Office of Radiation Programs, are maintaining surveillance of this project for EPA. Mr. Jeter has also met with State and DOE officials to discuss this project. I appreciate the opportunity to express EPA's views and I hope I have responded satisfactorily to your questions. If EPA can assist you further in this matter, please let me know.

Sincerely yours,

ANNE M. GORSUCH.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., February 28, 1983.

Hon. DONALD P. HODEL,
Secretary, Department of Energy,
Washington, D.C.

DEAR MR. SECRETARY: After the holding of an extensive public hearing on February 9, 1983, in North Augusta, South Carolina, on the restart of the L-Reactor at the Savannah River Plant, we feel that further public review of this federal action is necessary. The citizens of both our states believe in a strong national defense and will support this project if they can be confident their health and environment will not be jeopardized.

Therefore, we request that you undertake an extended public review process as outlined below. The planned restart of the L-Reactor in October 1983 should be dependent on the results of this review and should occur only after all significant public concerns have been adequately addressed.

We would envision an expended public review process comprised of the following steps:

1. Distribute the February 9, 1983, public hearing record to all those who participated in the hearing and to those who received a copy of the Environmental Assessment concerning the L-Reactor restart.

2. Allow a 90-day public comment period on the hearing record.

3. During the middle 30 days of the public comment period, hold public hearings to brief the public on the plans for the restart of the reactor and to answer questions from the public, at four locations: Augusta, Georgia, Savannah, Georgia, Aiken, South Carolina, and Beaufort, South Carolina,.

4. Within 30 days after the end of the public comment period, provide a report to the Committees on Armed Services and Appropriations of the Congress, summarizing public concerns and indicating measures that will be taken to mitigate those concerns.

Additionally, the commitments made to DOE officials at the February 9, 1983, hearing should be formalized, explained, and discussed during the public hearings. As we understand them, these commitments are:

1. to operate within the limits set by the Environmental Assessment or modify operations;

2. to conduct further thermal studies for all Savannah River Plant effluent streams as they impact on the Savannah River, and

3. to conduct epidemiological studies.

Your earliest favorable response to our proposal would be greatly appreciated.

Sincerely,

MACK MATTINGLY,
U.S. Senator.
STROM THURMOND,
U.S. Senator.

THE SECRETARY OF ENERGY,
Washington, D.C., March 15, 1983.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: Thank you for your letter of February 28, 1983, in which you and Senator Mattingly requested that the Department of Energy undertake an extended public review process on the planned restart of the L-Reactor at the Savannah River Plant. As we stated at your February 9, 1983, hearing, we are confident that we have complied with the National Environmental Policy Act. At the same time, we certainly agree that remaining public concerns need to be adequately addressed, so we would be pleased to conduct the public review process which you outlined. We welcome the opportunity to further discuss the information we have developed and the actions we have taken in preparing for the restart of L-Reactor.

Relative to our commitments to operate within the limits of the Environmental Assessment, conduct further thermal studies of the Savannah River Plant effluent streams as they impact the Savannah River, and continue epidemiological studies, we will be prepared to present and discuss the plans for these during the public hearings.

We anticipate issuance of a public notice regarding the extended review process shortly after receiving the hearing record and will keep you advised as to the steps we propose to take to implement your recommendations.

If I can be of any further assistance in this matter, please call me. I appreciate your continued support for our defense activities and your interest in this important project.

Sincerely,

DONALD PAUL HODEL.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., March 11, 1983.

Hon. DONALD P. HODEL,
Secretary, Department of Energy, Washington, D.C.

DEAR MR. SECRETARY: Please find enclosed a copy of correspondence of this date from Senator Hollings to the President and to Senator Thurmond.

As his correspondence explains, Senator Hollings has obtained internal documents from the Environmental Protection Agency indicating that certain staff of that agency have concluded that restart of the L-Reactor is a major Federal action significantly affecting the human environment and therefore requires preparation of an environmental impact statement. As you are probably aware, Mrs. Burford informed Senator Thurmond by letter dated January 28, 1983, that EPA supported DOE's conclusion that reactivation of the L-Reactor would not require preparation of an environmental impact statement. Also, Senator Hollings states that some EPA staff in Atlanta have indicated that there may be problems of groundwater contamination near the Savannah River Plant resulting from the discharge of certain chemicals into the environment.

We would appreciate your comments regarding the substance of the issues raised by these EPA document, particularly with regard to the issue of possible groundwater contamination. While we remain strong supporters of the President's defense programs and are pleased that the Savannah River Plant is able to make such a significant contribution to those programs, we are vitally concerned about protecting the health and safety of every citizen of South Carolina and Georgia. Activities at the Savannah River Plant must never be allowed to impinge on their health and safety or on the quality of their environment or drinking water. The issues raised by these EPA documents highlight, in our opinion, the need for the Department to promptly undertake the extensive public review process which we recently requested in our February 28, 1983, letter to you.

Thank you for your prompt response to our concerns.

With kindest personal regards and best wishes,

Sincerely,

MACK MATTINGLY,
U.S. Senator.
STROM THURMOND,
U.S. Senator.

THE SECRETARY OF ENERGY,
Washington, D.C., April 20, 1983.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: Thank you for your letter of March 11, 1983, in which you and Senator Mattingly requested the Department's comments regarding issues raised in recently released Environmental Protection Agency documents concerning L-Reactor. Our response to the specific issues is provided in the enclosure. In our review, we did not find any new environmental questions raised in these documents which were not adequately addressed in the L-Reactor Environmental Assessment. As I indicated in my letter to you of March 15, 1983, we will be pleased to conduct the public review process which you outlined, and we will address fully all of the issues which have been raised, including those in the Environmental Protection Agency documents. This review will be initiated as soon as the hearing record is available.

Relative to your specific concern about potential groundwater contamination, this issue is being very actively addressed on a total site basis, rather than as part of the L-Reactor restart, since L-Reactor operation would only have an incremental potential impact. Although very low levels of chlorinated hydrocarbons were recently reported in wells drawing from the Tuscaloosa aquifier on the Savannah River Plant site as indicated in the enclosure, no contamination of offsite groundwater has occurred. The Savannah River Plant has monitored the quality of groundwater extensively for many years and instituted projects to reduce the discharges to the seepage basins and demonstrate the cleanup of onsite groundwater. A comprehensive hydrogeologic investigation of the Savannah River Plant is being conducted, and the information is being used as the basis for decisions

concerning onsite groundwater management. We initiated work on projects in FY 1983 totaling over $22 million aimed at preventing offsite contamination of groundwater. The Savannah River Plant personnel have been working for some time with the South Carolina Department of Health and Environmental Control to ensure that all standards concerning groundwater will be met.

These actions, which are already underway, will ensure that the Savannah River Plant does not pose either an imminent or long-term threat to the groundwater or the quality of drinking water for the surrounding communities.

If you have any questions on this information, we would be glad to meet with you and your staff at your convenience. I appreciate your continued support for our defense activities and your interest in this important project.

Sincerely,

DONALD PAUL HODEL.

DEPARTMENT OF ENERGY COMMENTS ON SPECIFIC ISSUES RAISED IN ENVIRONMENTAL PROTECTION AGENCY DOCUMENTS CONCERNING L REACTOR

WETLANDS

The Department of Energy (DOE) analysis in the L Reactor Environmental Assessment (EA) is based on the condition of Steel Creek as it currently exists. The Steel Creek system was impacted by previous L-Reactor operation, and planned L-Reactor operation would only effect previously affected areas. There will be no additional long-term impacts to these previously affected areas. When L-Reactor ceases to operate in the future, the Steel Creek system will begin successional recovery again. The affected areas are less than 3 percent of the total Savannah River Plant (SRP) wetland area. The Steel Creek delta area in only about 0.3 percent of similar wetlands in the bottomland swamp forest of the Savannah River floodplain between Augusta, Georgia (River Mile 195), and Ebenezer Landing, Georgia (River Mile 45). DOE followed approved guidelines in complying with the Executive orders concerning wetlands and floodplains. A notice was published in the Federal Register on July 14, 1982, and a wetlands assessment was included as Appendix B of the EA, which was issued in August 1982. A Floodplain/Wetlands Statement of Findings was published in the Federal Register on August 23, 1982, in which DOE determined that there was no practicable alternative to direct discharge of cooling water to Steel Creek. To the extent practicable, wetlands impacts will be minimized, including protecting two lagoons adjacent to Steel Creek, which are used by alligators, from the hot water effects.

GROUNDWATER CONTAMINATION FROM MERCURY AND CHLORINATED SOLVENTS

DOE programs to reduce discharges of potentially hazardous materials from SRP operations have been developed in close cooperation with the South Carolina Department of Health and Environmental Control (SCDHEC). Comprehensive hydrogeologic investigations of the aquifers underlying the SRP site have been conducted since prior to plant startup. Groundwater movement patterns, both horizontal and vertical, have been studied. Protection of the Tuscaloosa formation, a regionally significant aquifer, has been an important consideration in SPR waste management practices. An extensive groundwater quality monitory program has been instituted at the SRP site and serves as the basis for decisions concerning onsite groundwater management.

Relative to the incremental effects of L-Reactor operation, discharges of mercury to the seepage basins from the chemical separations facilities (F-Area and H-Area) will increase approximately 33 percent when L-Reactor operates (approximately 1.5 kilograms (kg) per year). Mercury from the seepage basins has migrated to Four-Mile Creek. DOE has reduced discharged of mercury into the seepage basins substantially and is pursuing changes in operations that will further reduce these discharges.

The chlorinated solvents, "triclene" and "perclene," used as degreasing agents in the Fuel and Target Fabrication Facilities (M-Area), were discharged into a seepage basin in this area between 1958 and 1979. Use of these substances was discontinued when they were classified as "suspect carcinogens." Currently, a less toxic material, trichloroethane, is used as the degreasing agent. In 1981 when results from monitoring wells showed that contamination of the shallow groundwater below the seepage basin had occurred, the SRP notified SCDHEC and in January 1983, began operating a prototype facility to remove these organics from the groundwater. Recently, very low levels of triclene were reported in wells adjacent to the M-Area which draw from the Tuscaloosa aquifer. No offsite contamination of groundwater or drinking water supplies has occurred, and DOE is committed to a cleanup program to avoid offsite contamination. In addition, DOE has instituted a program to control releases of trichloroethane from the process equipment which has resulted in a significant reduction in discharges to the M-Area seepage basins to concentrations well below the Environmental Protection Agency (EPA) suggested health advisory levels for drinking water.

Waste disposal practices have changed at SRP, as they have throughout the United States in the past 30 years. Wastes generated at SRP have always been discarded in accordance with accepted practices at the time. As substances were identified as toxic in nature or classified as hazardous, the procedures for disposal of these materials were changed. The use of many chemicals were discontinued or significantly reduced after such reclassification.

AVAILABILITY OF SUPPORTING DOCUMENTS

All documents used as references for the EA were and are available for review in the DOE Public Reading Room in the Federal Building in Aiken, South Carolina.

NPDES PERMIT

SRP discharge of cooling-water into onsite streams was in accordance with the NPDES permit issued by the EPA to SRP in 1976.

Currently, DOE is in the process of negotiating the NPDES permit effluent limitations with SCDHEC to be included in the renewal of DOE's industrial NPDES permit. However, at the time the EA was published and the Finding of No Significant Impact (FONSI) was issued, the draft permit issued by SCDHEC provided for compliance with thermal stream criteria at the point where Steel Creek enters the Savannah River. Subsequently, in November 1982, SCDHEC Issued a revised draft permit which changed the compliance point to the locations where the reactors discharge into the onsite streams and identified the onsite streams as class B waters. Given the historical use and the unavailability for public use of SRP streams due to national security restrictions, DOE is requesting that the SRP streams receiving thermal discharges be reclassified as thermal receptors in accordance with South Carolina Water Pollution Control regulations. This would allow for compliance with thermal stream criteria at the point where Steel Creek enters the Savannah River.

An Environmental Protection Agency (EPA) staff attorney suggested that the FONSI for L-Reactor restart was not appropriate, partially because the action was potentially a violation of Federal, State, or local law. This was because an option under consideration at the time the EPA memorandum was written (December 1982) would involve compliance with thermal stream criteria at the point of discharge to Steel Creek from the discharge canal, rather than where Steel Creek enters the Savannah River. As indicated, we are still holding discussions with SCDHEC on the NPDES permit. It is our intent that L-Reactor effluent will meet all applicable standards.

ENDANGERED SPECIES

The SRP has no critical habitats, as designated by the U.S. Fish and Wildlife Service, for the American alligator. Consultation under Section 7 of the Endangered Species Act with the U.S. Fish and Wildlife Service resulted in DOE receiving a Biological Opinion of "no effect" for the red cockaded woodpecker and a Biological Opinion "that the proposed reactivation of L-Reactor is not likely to jeopardize the continued existence of the American alligator." Plans are proceeding to protect two lagoons near Steel Creek where alligator adults and juveniles have been observed. DOE is committed to continuing its ongoing comprehensive monitoring program for assessing potential impacts to endangered species.

NEED FOR EIS DUE TO SIGNIFICANCE

Any determination of significance is necessarily judgmental. In the case of L-Reactor, DOE has carefully followed approved procedures and has thoroughly considered the significance of the impacts of L-Reactor operation and concluded that, considering the previous impacts from operation of L-Reactor from 1954 to 1968 and viewed in the context of the physical setting and current use of the SRP site, the impacts resulting from the resumption of L-Reactor operation should not be significant.

Some EPA staff suggested that the size (2,150 megawatts thermal (MWt)) of L-Reactor would make the proposed action significant since the size is comparable to commercial power reactors for which preparation of an Environmental Impact Statement (EIS) is routine. However, DOE is neither siting, designing, nor operating a new reactor but merely restarting a reactor which previously operated.

Also, some EPA staff suggested that the amount of public controversy associated with this action would indicate that DOE should prepare an EIS. This judgment was made in a December 1982 document after a lawsuit concerning L-Reactor had been filed which generated significant media attention. At the time of the publication of the EA and issuance of the FONSI, there was no indication of public controversy. There have been no substantive technical issues raised which were not adequately addressed in the EA. Congressional intent concerning DOE's preparing voluntary EIS's to avoid public controversy when the technical facts did not warrant the preparation of an EIS was evidenced in Section 212 of Public Law 97-90 (Department of Energy National Se-

curity and Military Applications of Nuclear Energy Authorization Act of 1982). Pursuant to Section 212, DOE can only prepare EIS's for defense program activities which are required by statute. Accordingly, DOE prepared an EA to determine if the impacts were significant such that an EIS would be required. The determination was that the impacts would not be significant.

DEPARTMENT OF ENERGY,
Washington, D.C., April 28, 1983.

Hon. TRAVIS MEDLOCK,
Attorney General, State of South Carolina, Columbia, S.C.

DEAR GENERAL MEDLOCK: Attached is a signed copy of the Memorandum of Understanding. We appreciate your interest and efforts to resolve the issues regarding restart of the L-Reactor at the Savannah River Plant.

Sincerely,

DONALD PAUL HODEL.

Attachment.

MEMORANDUM OF UNDERSTANDING

The following points have been agreed to in principle by DOE and the State of South Carolina.

(1) DOE will conduct a comprehensive study of alternatives to substantially mitigate thermal impacts of all operations at SRP. The study will make recommendations to substantially mitigate thermal impacts on the Savannah River, its tributary streams and wetlands.

In addition to alternatives listed in the EA, DOE will consider:

Cogeneration, Low Head Hydro separate or in combination.

Operations of a fish hatchery.

Others as developed in the study process.

The study will involve appropriate South Carolina agencies in accordance with their statutory responsibilities and other U.S. government agencies or departments to consider both on- and off-site impacts. Representatives from organizations such as Friends of the Earth. Sierra Club, Environmental Policy Institute, League of Women Voters, etc., will also be invited to participate in a public comment and hearing process. Georgia agencies and public groups will be invited to participate as to potential considerations regarding the Savannah River thermal aspects.

Based on the thermal study, DOE commits to support the mitigative actions recommended. To this end, DOE also commits to submit and actively support appropriate legislation to accomplish the mitigative actions recommended.

After appropriate legislation is passed, DOE will commit to a compliance schedule with the State under the NPDES permit process. It the alternative recommended is currently in the EA, the schedule for compliance will be the schedule listed in the EA. If a new alternative is chosen, a compliance schedule will be established and mutually agreed upon.

Noncompliance by DOE would allow the State to take appropriate actions as established by law under NPDES.

(2) DOE will not seek a presidential exemption from the NPDES permitting requirements with respect to the commitments made in (1) above.

(3) DOE, with DHEC concurrence, will conduct a comprehensive epidemiological study of the human health effects of all operations at SRP. Public participation in a comment and hearing process will be provided. Other appropriate South Carolina agencies will assist in accordance with their statutory responsibilities. Government agencies, such as NIH, may be requested to participate. If the study indicates that mitigative actions should be undertaken, DOE commits to take appropriate mitigative action. If appropriate, a mutually agreed upon implementation schedule will be established.

(4) DOE will continue an expanded program of monitoring and study of groundwater impacts of all operations at SRP. Appropriate South Carolina agencies in accordance with their statutory responsibilities will be involved in on-site and off-site monitoring of groundwater impacts. DOE commits to take appropriate mitigative actions regarding groundwater impacts both on-site and off-site. A mutually agreed upon compliance schedule will be established.

(5) DOE will provide the State with data showing compliance with EPA radionuclide standards on a continuing basis.

(6) Within the limits of classification, DOE will provide to the State a history of independent studies, reactor safety improvements, and planned improvements, focusing particularly on safety measures taken since TMI. A schedule for implementation of additional safety measures now planned will be provided.

(7) Within the limits of classification, DOE will provide to the State a descriptive discussion paper regarding differences in SRP and commercial power reactors and the reasons why containment is not a feasible nor necessary retrofit on existing production reactors at SRP.

(8) DOE will commit to operate the L-Reactor within the limits specified by DOE in the EA and at the February 9,1983 hearings before the Senate Armed Services Committee unless such limits exceed any existing or future EPA requirements, in which case the EPA requirements will control. Appropriate South Carolina agencies will be involved in monitoring L-Reactor operation for compliance with these standards. In the event L-Reactor operation exceeds these limits, DOE commits to modify L-Reactor operation, including stopping of operations.

(9) Notwithstanding any other provisions of this agreement, DOE agrees to comply with all applicable State and federal environmental statutes and regulations relating to toxic and hazardous wastes at SRP.

(10) In consideration of the above, South Carolina will propose for issuance an NPDES permit which will include the L-Reactor operation and allow discharge into Steel Creek for two years. Further extension or modification of the NPDES permit will be based on the thermal study and the recommendations resulting from it and compliance with the provisions under (1) above.

(11) The State will enter into a consent decree with DOE terminating the State's participation in the current NEPA lawsuit.

DONALD P. HODEL,
Secretary of Energy.

THE STATE OF SOUTH CAROLINA,
May 13, 1983.

Hon. J. STROM THURMOND,
President pro tempore,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: Enclosed, herewith, is a simplistic explanation of the rationale which caused us to enter the Agreement in Principle in the so-called "L-Reactor" suit.

If you desire further clarification on the rationale for this settlement relative to technical or legal details, I will be happy to personally confer with you or arrange a conference call between you, me and the various attorneys involved in the preparation of the case.

With kindest regards, I am

Sincerely yours,

T. TRAVIS MEDLOCK.

Enclosure.

ADVANTAGES OF L-REACTOR SETTLEMENT

The State of South Carolina has not withdrawn from the so-called "L-Reactor" suit. Governor Riley and Attorney General Medlock simply affirmed the conclusion of the first phase of negotiations which hopefully will lead to a constructive solution of problems at SRP. Thus far, the State has entered an "Agreement in Principle" which is a conceptual outline of basic responsibilities and commitments on the part of DOE in the event of settlement. Attorneys for both parties will continue during the ensuing weeks with more detailed negotiations.

Set out below is the Attorney General's perception relative to advantages, to the State, of the "Agreement in Principle":

ADVANTAGES ALREADY OBTAINED IN "AGREEMENT IN PRINCIPLE"

1. Suit sought to protect 1,000 acres. Settlement ultimately protects and restores 7,000 acres.

2. Suit sought to study the problem of ground water contamination. Settlement obtains commitment to correct that problem and to prevent its happening again.

3. Suit sought a study of the environment on one reactor. Settlement requires corrective and preventive action on all reactors and operations.

4. Suit sought a study of DOE Settlement provides that the State of South Carolina must concur in the studies and will monitor operations on site.

5. Suit sought compliance by DOE of EPA standards. Settlement legally binds DOE to standards more stringent than those of EPA.

6. Total victory in the suit could not have prevented a Presidential exemption from permitting operations to begin regardless of requirements of the Clean Water Act.

7. Total victory in the suit would provide ultimately for a study of the L-Reactor only (EIS). Therefore, that Court Order could be enforced to require DOE to perform an EIS.

Settlement will result in an enforceable Court Order requiring compliance with terms for corrective action on all four reactors. If DOE should fail to comply, the Attorney General could bring suit on behalf of the State to enforce the Order as well as suits based upon other causes of actions which have not yet been asserted.

● Mr. JACKSON. Mr. President, the amendment before the Senate relates to the restart of the L-reactor at the Savannah River Plant in Aiken, S.C. The amendment is quite simple. It specifies a schedule for completing an expedited environmental impact statement before the L-reactor can be restarted. It builds upon a provision authored by Senators MATTINGLY and HOLLINGS during the markup of this supplemental appropriations bill. I understand it has been agreed to by all Senators who are involved in the L-reactor.

Senator TOWER has mentioned the importance to our national security of getting this L-reactor back into production. It was originally built in the late 1950's and operated until 1968. At

that time the reactor was placed in standby. Based upon current requirements to replace our aging stockpile of nuclear weapons, we are going to have to increase our current ability to produce both plutonium and tritium. We are doing several things to meet this increased demand, including converting the N-reactor in my State to plutonium production. However, the restart of the L-reactor is a vital part of this effort. We simply cannot delay the restart of the L-reactor for very long. A plutonium shortfall would force the President to make some very difficult decisions to cancel or defer some of our strategic programs.

I also understand the concerns for the health and safety of the people of the States of South Carolina and Georgia. I have similar concerns for my home State which has a large defense nuclear complex at Hanford, Wash.

I think the balance struck here is good. An environmental impact statement will be completed, but it will be expedited. Based on the environmental studies that have been done up to now and the series of public hearings that have already been held, I am confident an expedited EIS can be completed that will adequately address the potential environmental issues.

Mr. President, I support this perfecting amendment and urge my colleagues to consider it favorably.●

● Mr. HOLLINGS. Mr. President, I am pleased to join my distinguished colleagues in sponsoring this amendment. This amendment is very similar to the language which I introduced in the Appropriations Committee on May 26 and which passed the committee without objection. The new language essentially clarifies what was implicit in my original language: That the environmental impact statement we are mandating on the L-reactor project shall be expedited and completed by the first of next year.

In supporting this amendmemt, I want to thank my three distinguished cosponsors for their role in this matter. Like me, Senator TOWER and Senator JACKSON are strong supporters of our Nation's defense programs and wish to avoid unnecessary delays in a project as important as this. But they also support prudent and reasonable steps to protect the environment and the public safety. I appreciate the way that they have worked with me and Senator MATTINGLY to craft language that meets both sets of concerns. This language mandates an environmental impact statement that will provide us with the additional information we need on this reactor's environment effects, but it expedites the EIS so that the reactor will be on line by the time it is truly needed.

I also want to compliment the distinguished Senator from Georgia (Mr. MATTINGLY) for his statesman approach to this difficult L-reactor issue. He has done much here to protect both the interests of Georgia and the defense interests of the Nation.

Mr. President, I am pleased to see this EIS issue finally resolved. When the Energy Department announced last August that they thought no EIS was necessary on the L-reactor restart, I was very skeptical. Environmental impact statements often have been required on projects smaller than the reconstruction and restart of a large nuclear reactor. So I was not surprised when a suit was filed last November challenging the Department's "finding of no significant impact."

The irony here, Mr. President, is that a protracted legal fight might eventually delay the L-reactor far longer than would any DOE decision to do the EIS on its own and get it over. In fact, if DOE had stuck to its original 1980 commitment to do the statement, we would not now be in this situation. Even if DOE had started the EIS last December, when I and others urged them to do so, the process would now be almost complete. But DOE has dragged its feet and done nothing to remove the legal uncertainty that hangs over the L-reactor restart. This amendment today actually will remove that uncertainty and insure that the EIS is completed no earlier than December 1, 1983, and no later than Janaury 1, 1984.

I want to stress something else. While we seek an expedited EIS, I for one fully intend that it be a serious, complete document that addresses the concerns that have been raised by both citizens and elected officials alike. This whole issue of an EIS arose because of serious questions about the possible environmental and health consequences of this project as now designed. Like other facilities at the Savannah River plant, the L-reactor uses what is essentially 1950's-type pollution control equipment. And serious questions were raised from almost the beginning about this equipment—not about the reactor itself but about its emissions. First, there were questions about the reactor's effects on surrounding wetlands and about the fate of some radioactive cesium that the reactor would flush into the Savannah River. Then there were serious questions about the contamination of underground water by toxic chemicals used to clean related SRP facilities. These were serious, important questions that deserved to be treated forthrightly and with full written documentation. But the Energy Department refused to do the EIS, issuing instead a shorter "environmental assessment" that raised more questions than it answered.

The Department and other administration officials then compounded the problem by using some heavyhanded tactics. Environmental Protection Agency officials here in Washington said that the Agency did not disagree with DOE's "finding of no significant impact," when in fact EPA's own analysts raised serious questions about the project's environmental impact and explicitly called for an EIS. Then in February DOE officials threatened to block new jobs-producing facilities at the Savannah River plant. Later, in May, they said that an EIS would lead to the layoff of 700 current workers, when in fact postponement of L-reactor operations would delay 400 new jobs. Such tactics were not appreciated by either me or many others in my State.

These events of the past few months have only reinforced my demand for a full EIS. DOE's credibility with me and many in South Carolina is low, and I want to see their assertions in writing, backed up by documentation. The EIS process is the appropriate vehicle for presenting their views and data.

It is now my hope that today's language will do much to improve the present situation. Settling the EIS issue once and for all will remove the legal uncertainty that now hangs over the project and which eventually might have seriously delayed this important defense project. The EIS will also do much to answer the questions that have been raised in both South Carolina and Georgia. And, equally important, a good and candid EIS will help restore the public credibility of the U.S. Department of Energy.

Mr. President, I now want to turn to the amendment itself for a moment. This amendment is designed to allow DOE to finish its construction work on the L-reactor. It also allows them to store fuel elements at the reactor, but prohibits the Department from actually loading that fuel into the reactor's core until the EIS is completed. It also allows water tests at the reactor before the completion of the EIS, providing that none of this water is discharged into Steel Creek until the EIS is finished. This provision is to prevent radiocesium now in Steel Creek from being flushed into the Savannah River before the EIS process is completed.

Finally, Mr. President, I want to emphasize again that this environment impact statement is to be a serious effort, and one that fully addresses the questions that have been raised by me, Senator MATTINGLY, and many others. Attached to this statement is a list of the topics that I want to see addressed in the EIS, and I ask that it be printed at the conclusion of these remarks.

Mr. President, I understand that the distinguished chairman of the Armed Services Committee, Senator TOWER, agrees with me on this point.

Mr. TOWER. Mr. President, I do agree with the Senator from South

Carolina that this EIS should be a serious study and one that addresses the environmental questions that have been raised about the L-reactor project. I have seen the list of topics that the Senator wants the EIS to address, and I feel that this list is reasonable.

My concern has been to keep this EIS from taking so long that it hurts vital national security programs, but this expeditied schedule insures that the EIS will be completed in a timely way. It also provides the Department of Energy with sufficient time to perform a complete, indepth analysis of the issues raised.

Mr. HOLLINGS. I thank the Senator from Texas, and once again want to commend him, Senator JACKSON, and Senator MATTINGLY for their roles in this matter.

The material requested to be printed in the RECORD is as follows:

TOPICS THAT THE L-REACTOR EIS SHOULD COVER IN DETAIL

Since the purpose of the L-Reactor EIS is to provide additional information to the public and to elected officials, and to allow for additional citizen input, the EIS should provide details on those issues that have been raised by citizens and government officials. In particular, the EIS should provide clear, complete information on the following topics.

(1) Ground water contamination.—Since the L-Reactor will lead to more fuel fabrication in the "M" area of the Savannah River Plant, one question that arises is whether restarting the L-Reactor will add to the already troubling ground water contamination problems in M. There is also the question of whether L/Reactor-related activities in the separations area will, or possibly can, lead to groundwater contamination. Thus the EIS should discuss these matters in considerable detail, especially covering these points:

(a) Potential impacts.—In particular, what quantities of chemicals and radioactive materials have already been discharged into the ground at both M-area and the separations area? What steps are being taken now to prevent further contamination in these areas, to monitor existing contamination, and to clean up those underground reservoirs now contaminated? In particular, what will be done to clean up or restore the Congress and Tuscoloosa aquifers? How much would the L-Reactor's operation, using current pollution control equipment, add to the present discharges? And what are the pathways by which any such contamination could flow into areas outside of the Savannah River Plant?

(b) Mitigation options.—It is very important that the EIS discuss in detail the options available—both in the short-term and the longer-term—to prevent or mitigate any ground water contamination that might be caused by L or L-related activities. For instance, commercial plants of all kinds often use advanced waste water treatment technologies? Which are available here, at what costs, and with what time frames?

(2) Radiocesium and tritium:

(a) Potential impacts.—There are a great many questions about the cesium now in the Steel Creek area that will be resuspended by L-Reactor operations. Among the questions that the EIS should explicitly address and answer are the following. How much cesium is in the Creek area, where exactly is it, and how did it get there? Where exactly is it likely to be deposited after the restart and at what pH? What concentrations are likely at different locations along the Creek and the Savannah River? What are the possible health effects of radiocesium? What data and assumptions lie behind DOE's answers to these questions? Similar details on waterborne and airborne tritium releases also should be provided.

(b) Mitigation options.—Would cooling towers or other cooling technologies reduce the resuspension or migration of the radiocesium in Steel Creek? It is possible to excavate the sediments presently holding the cesium? What technologies are available for retreiving and storing the cesium if it should end up in any city's water treatment filters or sludge? Similarly, what, if anything, can be done to reduce tritium emissions from either the L-Reactor or L-related activities?

(3) Thermal effects.—Present DOE plans call for the direct discharge of the L-Reactor's cooling water into Steel Creek. This leads to several questions.

(a) Potential impacts.—How would both the heat and flooding caused by direct discharge affect both neighboring wetlands and animal life? What data and assumptions lie behind these calculations?

(b) Mitigation options.—The EIS should contain detailed information on the options available to manage this cooling water. Both interim measures, such as spray cooling, and longer-term options, such as cooling towers, should be discussed. Details should be presented on cost, efficacy, and the time required to install.

(4) Containment.—The reactors at the Savannah River Plant do not have containment domes of the type required at commercial nuclear power plants. The EIS should present a clear description of why this is the case, what technologies are now used to prevent accidental releases of nuclear material, and how much a containment dome for the L-Reactor might cost in terms of time and money.●

● Mr. NUNN. Mr. President, I am pleased to join my colleagues from South Carolina and Georgia, Senators THURMOND, HOLLINGS, and MATTINGLY, in cosponsoring this amendment requiring an expedited environmental impact statement prior to restart of the L-reactor at the Savannah River plant.

In my view, this approach represents a reasonable balance between the environmental concerns related to startup and the national security requirements.

As I indicated in my testimony before the field hearing in North Augusta, S.C., I recommended a thorough and comprehensive examination of the environmental, health, and safety aspects as well as having answers to all the outstanding questions prior to any final decision or startup. The proper way for these issues to be examined, with full public input, is through the environmental impact process.

In my judgment, this amendment will help insure that these goals are met and that health, safety, and environmental concerns will be thoroughly addressed prior to startup.●

Mr. WEICKER. Mr. President, it is my understanding that this matter has been thoroughly discussed in the subcommittee dealing with energy, more particularly with the chairman, Senator HATFIELD, and it is acceptable to the committee. It is also my understanding that this has been cleared with the minority side and is acceptable to the minority, and I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1366) was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MATTINGLY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COHEN). Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I ask unanimous consent that the D'Amato amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I ask unanimous consent also that the committee amendment be laid aside at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1367

Mr. WEICKER. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an amendment numbered 1367.

Strike the language on page 71, line 23 to page 72 line 10 and insert the following:

Higher and continuing education for an additional amount for "higher and continuing education", $4,817,000.

Mr. WEICKER. Mr. President, the purpose of this amendment is to give to my colleagues the opportunity to review an action taken on this floor earlier today. Unfortunately, at the time such action was taken, the chairman of the subcommittee responsible for the jurisdiction contained in that action was not on the floor.

It would be my hope that we will have a chance to confer with all the

parties concerned and the matter can be resolved in a positive fashion.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WEICKER. Is my amendment the pending business?

The PRESIDING OFFICER. It is.

Mr. WEICKER. Can the Senator from Connecticut by unanimous consent ask that this be laid aside temporarily?

The PRESIDING OFFICER. That is correct.

Mr. WEICKER. At which point it would be in the same category as the D'Amato amendment, or would it be?

The PRESIDING OFFICER. It would be in the same category.

Mr. WEICKER. I ask unanimous consent that the amendment at the desk, the pending business, be laid aside temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. WEICKER. Yes, indeed. I yield to the chairman of the committee.

Mr. HATFIELD. I wish to merely make a statement here to perhaps hopefully clarify the situation at hand.

For 2 days we have had a list of amendments to be offered by various and sundry Members of the Senate and the subject matter of those amendments.

Senators RUDMAN and EAGLETON had listed their amendment on that list, and I take full responsibility for any misunderstanding or lack of communication. It does not belong on the staff level or any other person's shoulders but my own as chairman of the committee.

I offer my apologies or whatever is necessary to the Senator from Connecticut for the kind of action that was taken that he feels to be improper.

But let me say to the Senator from Connecticut that as we have sought to get these amendments up and to get them acted upon it has been a matter of trying to expedite in every way possible to reduce the time that we have this bill pending which already is an inordinate period of time by the very mechanics of the way this bill has been handled. We have been out here on the floor for a 4-day period, mostly to accommodate the convenience of other Senators rather than really to expedite the business at hand.

As a consequence, as the Senator from Connecticut knows, we who have taken on the job of managing this bill have persuaded, cajoled, urged, threatened, and everything else Senators who have had amendments pending to get over here to the floor to get those amendments up. That is one factor.

The second factor is that we have a number of the subcommittee chairmen of the Appropriations Committee who are out of town and as these amendments have been brought up that are in their jurisdiction the managers of the bill have called upon staff to assist in the detailed information in order to handle these amendments that belong to these various jurisdictions, again, with those two factors of trying to expedite the handling of this supplemental.

I realize the Senator from Connecticut, who has been my right arm on this whole matter of managing this bill, has given more time to the leadership on the floor than anyone else in the management of this bill. As to this amendment offered by the Senator from New Hampshire (Mr. RUDMAN), on behalf of himself and the Senator from Missouri (Mr. EAGLETON), there was one of those lulls in the proceedings in which he was on the floor to respond to an amendment offered by the Senator from Ohio (Mr. METZENBAUM), who was on the floor representing the Subcommittee on Defense because Senator STEVENS is not here and we had to have someone. This was a new amendment which no one had any previous knowledge of and, therefore, Senator RUDMAN was on the floor for that purpose. When we went into a lull again I looked down the list and I saw the Rudman amendment pending and I said; "Do you want to offer your amendment at this time?"

So again it is my full responsibility, and I make all due apologies to the Senator from Connecticut. I will say that I discussed the matter with the Senator from Connecticut earlier on, and it was my understanding that he was fully aware of the amendment, the content of it, and so forth, but I do, Mr. President, make very clear in the RECORD that is was my error, my lack of judgment, my lack of sensitivity to the fact the Senator had total and complete jurisdiction of this subcommittee, and I have supported him in that role and will continue to do so. And this amendment very clearly fell within that subcommittee's jurisdiction.

I should have informed the Senator from Connecticut, and he should have been on the floor, or waited until he came to manage this bill for this amendment to be taken up. It was in I suppose part of the rush. I do not try to justify the action but merely to try to explain the action. It was in an effort to expedite, to get these amendments off our chart to get the completion of this action and get on with the other business of the Senate, and so, overwhelmed with that desire, I got a little foggy and perhaps my glasses need refocusing on some of these things.

I assure the Senator it will not happen in the future. I assure the Senator if he wishes to vitiate this amendment and have it eliminated from the bill I will support him in that action.

I am very hopeful that somehow this can be clarified so that there is no problem for anyone else except for me and my personal relationship with the Senator from Connecticut.

Mr. WEICKER. Let me assure my good friend from Oregon that no explanation at all is necessary insofar as he is concerned as he is the man who has been on his feet for almost 2 days now under the most difficult of circumstances trying to get this legislation through.

Second, clearly second to him, I have been here with him to try to accomplish the same end, and indeed all I wanted to do was to give the opportunity for me to exercise my jurisdiction. I, in my opening comments, gave no indication what this matter was about or who was involved or how it came to pass, except for the fact I was not here when it was decided.

All I am trying to do is have the opportunity to sit down with the interested parties to try to work this thing out, as I indicated in my remarks.

I think the Senator from Oregon has started to recapture the distinction that used to go with the Appropriations Committee in his leadership of it both in committee and on the floor, and there is just no question in my mind that both my most enjoyable moments and my most productive moments are in his company on the business of the Appropriations Committee.

He feels very strongly, I happen to know, about the fact that he is the chairman of that committee and that he is not going to give up any of the jurisdiction either to the executive branch or other committees in the legislative branch. So it is when I took on the chairmanship of the Subcommittee on Labor, Health and Human Services that I am trying to emulate his style of leadership. I will not give up the jurisdiction of that subcommittee to anyone else, but rather try to work things out with all my colleagues, and trying to achieve the aspirations of all of my colleagues, Republican and Democratic alike, as they relate to the committee.

So I do not see any problem at all. I think it can be worked out. I would like to leave the amendment where it is, which in effect gives us that opportunity to work on it. It has been laid aside and I think we all understand what the import of it is and it seems to me this matter can be resolved very quickly once everyone gets together.

But I could not agree more with the Senator from Oregon because certainly there was nobody who wanted to do anything intentionally during my absence from the floor and I take the responsibility for it. Again I repeat I

think this whole matter will be resolved.

Mr. HATFIELD. Mr. President, I thank the Senator from Connecticut for his comments.

I want to make it clear again, because if you want to go back in history I take full credit because I think his incredible leadership—I am taking full credit in trying to talk the Senator from Connecticut into taking the chairmanship in the first place because I knew it was going to be one of the most difficult and sensitive of the chairmanships to be exercised in this framework of political circumstances in the time problem of any committee. He has done a fantastic job in that role, and there is no way that his jurisdiction over those matters is going to be demeaned or diminished.

As I say, I am proud of the fact that we were able to sit down and work out these chairmanships and the Senator had moved from one committee to take on the chairmanship of this committee it was with reluctance that he did so. It was not a lack of interest in the subject because it was intense in this field but he had well established himself to become chairman of a committee, State, Justice, and Commerce I believe it was, or he had served as ranking member for the number of years he had been on the Appropriations Committee. But I knew there had to be a man of great stature and ability to take on this subcommittee because it was going to be terribly important and, consequently, I was delighted when he acquiesced to that urging.

Second, I think this is illustrative of what happens when we try to run the Senate in a very, very unsatisfactory manner, running the Senate in a sense of having an appropriations bill out here where we always for some reason become a magnet for every kind of conceivable amendment which has been germinating in the minds of men and women for probably months and years, and we always seem to attract a lot of amendments, oftentimes they seem really unnecessary, and then to have this vulnerability for 4 days makes it even more difficult.

I do not like to run late into the night. This committee has had bills out here where we have had to run all night. That is not the way to do the Nation's business.

Consequently I think this is one more example of what can happen when we are trying to operate in this kind of system, trying to get this bill through, having all these dozens of amendments confronting us, trying to expedite it against the problems of Senators' refusal to come on the floor, be a little bit considerate and a little bit courteous to their colleagues, rather than forcing this bill to go on and on and on. So I merely want to comment upon the system as well as upon the incident at hand.

Mr. President, I yield the floor.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the D'Amato amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, on behalf of the managers I ask the Chair to temporarily set aside the committee amendment.

The PRESIDING OFFICER. The committee amendment is set aside.

Mr. HATFIELD. Mr. President, I believe the Senator from Oklahoma (Mr. BOREN) is ready to offer his amendment.

AMENDMENT NO. 1368

(Purpose: To provide for early announcement of the 1984 annual commodity programs for wheat, feed grains, upland cotton, and rice, under the Agricultural Act of 1949)

Mr. BOREN. Mr. President, I send an amendment to the desk and ask for it immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Oklahoma (Mr. BOREN) (for himself, Mr. HUDDLESTON, Mr. ANDREWS, Mr. ZORINSKY, Mr. DIXON, Mr. BAUCUS, Mr. PRYOR, Mr. KASTEN, Mr. LONG, Mr. EXON, Mr. BENTSEN, Mr. LEVIN, Mr. JOHNSTON, Mr. BUMPERS, and Mr. HART) proposes an amendment numbered 1368.

Mr. BOREN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 125, after line 7, insert a new section as follows:

SEC. 405. Effective only for the 1984 crops of wheat, feed grains, upland cotton, and rice, the Agricultural Act of 1949 is amended by inserting after section 107C (7 U.S.C. 1445b-2) the following new section:

"EARLY ANNOUNCEMENT OF PROGRAMS

"SEC. 107C. Notwithstanding any other provisions of this Act, the secretary shall announce the terms and conditions for each of the annual programs for the 1984 crops of wheat, feed grains, upland cotton, and rice (including the applicable loan rate and established price, and the details of the acreage reduction program, if any) according to the following schedule:

"(1) For wheat, by July 1, 1983;

"(2) For feed grains, by September 15, 1983;

"(3) For upland cotton, by November 1, 1983; and

"(4) For rice, by December 15, 1983."

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. BOREN. I am happy to yield to the Senator from Oregon.

Mr. HATFIELD. Mr. President, just to keep the record straight, I ask unanimous consent to temporarily set aside the Weicker amendment, as well.

The PRESIDING OFFICER. That had been done previously, the Chair would advise the Senator.

Mr. BOREN. Mr. President, as we all know, American agriculture is in the midst of an economic crisis. Not since 1932 have we experienced 3 straight years of declining net farm income; 1982 was the third such year. In my own State of Oklahoma, it is now estimated that while farmers had a net income per unit of $14 for the year last year, that they owe approximately $15 billion in our State alone. It is obvious that we have reached crisis proportions when we have an income per farm unit of $14 annually trying to service a debt of $15 billion.

When adjusted for inflation, 1982 net farm income was lower than net farm income in 1932, the worst year of the Depression. Net farm income could still decrease this year. Cash prices are down despite the large amount of land taken out of production this year because of the PIK program. For example, in my own State of Oklahoma alone, the cash price for wheat has fallen 30 cents in 30 days. We could still show an increase in wheat carryover stocks despite the PIK program as well.

U.S. agricultural exports fell to $18.1 billion during the first 6 months of this fiscal year, a 17-percent decline from the same period a year earlier. Wheat shipments are presently 17 percent below 1 year ago, and rice shipments have declined by 36 percent. Cotton exports have dropped by a third.

The current supply situation, coupled with declining exports, indicates that, at a minimum, another year of supply adjustment programs is necessary.

Right now farmers across the Nation are making planting and purchasing decisions for the 1984 crop year. These decisions cannot be properly made as long as vital information is withheld. It is essential for farmers to know what the commodity program will consist of early if they are to make informed decisions.

It serves no purpose for USDA to announce its commodity programs after planting and/or land preparation has already begun. It does not serve the interest of the farmer. It does not serve the interests of the consumer. It does not serve the interests of the farm suppliers. The only people that it might serve are the bureaucrats at USDA.

Just as the farmers need information in a timely manner in order to plan their expenditures and purchases, the agribusinesses which supply the inputs necessary for our crops' production are willing to help turn the situation around. But to do so it is only fair that they, too, have the information they need to help avoid any losses that could occur. Many of our supply businesses encountered serious financial difficulties this year because of the PIK program. I believe that a great deal of this could have been avoided had the Department announced the PIK program at an earlier time.

In other words, we had suppliers stocking up on seed, on fertilizer, and on other products. They would not have built their inventories up in such a degree had they known in advance that a program like the payment in kind program was going to be adopted.

Farmers also expended funds on land preparation which they would not have expended had they known earlier about the program.

For all these reasons, Mr. President, it is imperative that the Department responsibly announce their plans for our commodity programs. Numerous Members of this body have sent letter after letter to the Secretary of Agriculture urging him to announce the programs early. We had all thought that we would know at this point what the wheat program was going to be, and certainly by June 15, but the Secretary still has not come forward with an announcement. The amendment I am offering today, and several others, including many members of the Agriculture Committee, will set up a time schedule which the Secretary would have to follow in announcing programs. The programs would have to be announced according to the following schedule: For wheat, by July 1; for feed grains, by September 15; for upland cotton, by November 1; and for rice, December 15.

Under this plan, farmers as well as agribusinesses would know the information they need by a date certain. I urge my colleagues to join me in support of this amendment which could save millions of dollars for our farmers and our agribusinesses.

Mr. COCHRAN. Mr. President, first I compliment the Senator from Oklahoma for bringing up this discussion in our consideration of this supplemental appropriations bill. Just a few days ago, at his insistence, several of us in the Senate joined him in writing a letter to the Secretary of Agriculture urging early announcements on the programs for the 1984 crop year.

I think there is no question but what agriculture would benefit from more timely announcements, announcements that are made as early as possible, so that good decisions can be made by farmers in anticipation of the Government's intention in order that they will be able to earn a profit in the farming operation.

There is concern that this legislative mandate might be inappropriately attached to an appropriations bill. Clearly, it is mandatory by its terms. It is legislation, and it would be subject to a point of order for that reason. It is not germane.

Our understanding is that we do need to send a message to the administration. The question is, What form should that message take?

I am hoping that the Senator from Oklahoma will consider withdrawing this amendment and offering, instead, a resolution which would be in the nature of a sense-of-the-Senate resolution, stating the hope that these announcement dates could be accelerated.

Before proceeding further with any kind of suggested alternative, I might ask if this Senator's understanding is correct about the exact terms of the proposed amendment.

Is it correct that the announcement schedule proposed by the Senator would be July 1 for wheat, September 1 or September 15 for feedgrains, November 1 for upland cotton, and December 15 for rice?

Mr. BOREN. The Senator is correct. It would be July 1 for wheat, September 15 for feedgrains, November 1 for upland cotton, and December 15 for rice. Those are the dates set forth in the amendment.

Mr. COCHRAN. I might say that unless the Senator would agree to substitute a sense-of-the-Senate resolution, we would reluctantly have to make a point of order against the amendment as offered. I would hope that the Senator would consider substituting, instead, a sense-of-the-Senate resolution.

Mr. BOREN. Mr. President, I appreciate the comments made by the Senator from Mississippi, my colleague on the Agriculture Committee, Certainly, he is a person who has shared my deep concern for the plight of agriculture. He has very effectively worked as a member of the Agriculture Committee on behalf of the farmers not only in his State but all across the country. I appreciate and respect the work which he has done on behalf of agriculture.

I would feel on this occasion that I would like to try to press my amendment. The Senator would certainly be free to raise the point of order. Depending upon the ruling of the Chair, I would perhaps have a followup amendment to offer.

I feel very strongly about what I have proposed here. I am not attempting to be unfair to the Department. In fact, my original amendment specified June 15. There were some negotiations conducted last evening with some of the representatives of the Department in regard to their willingness to perhaps accept the amendment if it were changed. if the dates were changed. We made the modifications, moving from June 15 to July 1 on wheat, for example, including the other commodity dates as well.

I now understand that there is some division of opinion within the Department. It is not clear now that the Department would accept that change.

I think in terms of confidence within the agricultural community right now, and in terms of their ability to handle credit from the financial institutions and to stay afloat in general, it is very important that we have an early announcement

The Senator from Mississippi has joined me and others on the committee in urging early announcement. I know he feels as I do about it.

That is the reason I feel obliged to go ahead and at least offer this amendment, to see how the Presiding Officer would rule if there is a point of order raised against it.

There is also some talk that there might be an attempt to tie the program, for example, on wheat to a decision by Congress in regard to the Secretary's proposal that target price levels be frozen. I understand that the Secretary is operating under some constraint, but I think it is also very, very important that the Secretary make it clear publicly what the wheat program would be before we are pushed to vote on any kind of proposal to freeze target prices. I know a number of us on the committee have had an opportunity to convey this view to the Secretary and convey to him our hope that he will announce what the program would be, or at least what his program options would be, depending on the action of Congress. I hope that will be done.

So, Mr. President, that is another reason I feel it is very important that we send a message, a very strong and clear message, to the Department at this point and to the administration. I look at it as strengthening the hand of the Secretary of Agriculture. He is a farmer, himself. I an sure he understands the need for early announcement. I am sure he knows that there are serious dislocations in other parts of the agricultural economy, other businesses—the fertilizer business, for example, seed, machinery, and others—because of the fact that we did move at such a late date to establish the payment-in-kind program this year. I certainly want to make sure we do not make that mistake again.

I surely always have great respect for any point of view offered by the Senator from Mississippi and understand that he would be free to proceed as he feels obliged to do or feels that we should proceed on the program.

Mr. DOLE. Mr. President, I thank both the Senator from Oklahoma and

the Senator from Mississippi. In addition to being the chairman of the Agriculture Subcommittee of the Appropriation's Committee, the Senator from Mississippi is chairman of the Agricultural Production, and Stabilization of Prices Marketing Subcommittee in the Agriculture Committee. He therefore plays the role of double hero to residents of the State of Oklahoma as well as Mississippi and others.

I can understand the need for farmers to know as quickly as possible when their commodity program will be announced and what the program may entail. In fact, I must say that we were trying here last year to give the Secretary authority. There was some question as to whether the Secretary had the authority to go ahead with the PIK program without certain changes by Congress. Those changes were being sought by a number of us on both sides of the aisle last December, but the Senator from Montana (Mr. MELCHER) had a disagreement and he could not let us proceed with that legislation.

I would say that one reason farmers did not know about PIK earlier was because of the failure of Congress last year to act. Our efforts were very clear in that area. It is not because the Secretary of Agriculture or anyone else in the administration was dragging his feet. I think that Secretary Block has done an outstanding job. But because Congress would not give the authority to the Secretary by making the requested changes, the Secretary went out on his own with the PIK program. As the Senator from Oklahoma has indicated, this delay did cause some concern, particularly in wheat areas. It would have been better to have announced the program earlier.

I want the record to show that the delay in the PIK announcement was not the fault of the Secretary, but to an extent the fault of the entire Congress.

I recall one late evening working with several distinguished Members of the House including our friend, Representative TOM FOLEY, who was willing to keep the House in session another 30 or 40 minutes if there was some way to convince the Senator from Montana (Mr. MELCHER) that the PIK program we were proposing was a good idea. We could not do that, and the Secretary then did the next best thing. He did it on his own initiative, without some of the changes we thought were necessary.

Last evening, we delivered to the Secretary of Agriculture a letter signed by 11 members of the Senate Agriculture Committee—Senators HUDDLESTON, HELMS, LEAHY, DOLE, BOREN, PRYOR, COCHRAN, JEPSEN, BOSCHWITZ, HAWKINS, and DIXON. I understand that Senator ZORINSKY also indicated his intention to sign. That letter asks the Secretary to announce the 1984 wheat program as soon as possible, and hopefully by June 15. We just delivered the letter. The ink is barely dry. I do not think we should come on the Senate floor and mandate that the Secretary do the very thing we asked him to do by letter last evening.

In addition, Mr. President, as pointed out by the Senator from Mississippi and the Senator from Oklahoma, we would rather not get into a target price argument on the Senate floor until we know what the Secretary has in mind for a PIK program on next year's crop.

It is fair to say that the cost of farm programs is going out to sight. From $4 billion in fiscal year 1981, farm program costs have increased fivefold in 2 years to an estimated $21 billion in fiscal year 1983. Those of us from farm States have a responsibility, because we represent both farmers and taxpayers, to try to control the cost of farm programs within justifiable limits. If we fail in our responsibility, the urban Members of Congress, including Senators from primarily urban States, may begin to scrutinize closely the cost of farm programs.

This Senator finds that farmers in the State of Kansas and I am certain other Members find farmers in their States wanting to make a profit in the marketplace. They are not in the business of farming the U.S. Treasury and looking for Federal checks. If we are going to have another production management program that will add further to the expense of the one we are going through now, we must be willing to make a contribution on the target price side. I agree with both Senators that this decision should not be made until we have seen other details of the program. Then maybe we can make a judgment on what the target price level should be.

I also share the concern expressed by the Senator from Mississippi. This is clearly legislation on an appropriations bill. It is subject to a point of order. As I understand, the Senator from Mississippi will make that point of order. If that is sustained, I shall be happy to join the Senator from Oklahoma in a sense-of-the-Senate resolution, as I am certain the Senator from Mississippi would, because we do want the program announced as early as possible. Farmers have a right to know, particularly in wheat areas where they are in the middle of harvest now.

I thank the Senator from Oklahoma for raising this important issue.

(By request of Mr. BOREN, the following statement was ordered to be printed in the RECORD:)

● Mr. PRYOR. Mr. President, I am pleased to be a cosponsor of this amendment, offered by the Senator from Oklahoma (Mr. BOREN) concerning the announcement dates for the 1984 crops of wheat, feed grains, cotton, and rice. This is a very important amendment and I urge its adoption.

This amendment would require the early announcement of the 1984 crops. For wheat, it would be June 15, 1983; for feed grains, it would be August 15, 1983; for cotton it would be November 1, 1983; and for rice it would be November 30, 1983.

This amendment is a small change, Mr. President, but I think it would be very important for our Nation's farmers. Late last year the Secretary of Agriculture announced the payment-in-kind (PIK) program under which farmers would receive Government-owned commodities in return for idling part of their land. Most people, including officials of the Department of Agriculture, expected a good response from our Nation's farmers to this program. However, the results were absolutely remarkable when they were announced. There will be about 82 million acres of farmland idled this year under PIK.

The problem that we have to avoid, Mr. President, is a delay in announcing next year's program. The farmers deserve as much advance notice as possible with regard to the 1984 crops, especially since it will come on the heels of the PIK program. Early announcement of all crops will help people plan and bring a little more certainty to an often confusing area. Many farmers are asking when the programs are going to be announced, whether or not there will be another PIK program, and many other questions about our farm programs. They need and deserve answers to these important questions. If this amendment is adopted, it will at least give them more advance notice about next year's crops. At a time when many farmers are in serious financial shape, Mr. President, and have suffered through several years of low commodity prices and declining exports, it seems that the least that can be done is give them as much notice as possible about next year's programs and what will happen after PIK.

I urge the adoption of this amendment, and I commend the Senator from Oklahoma (Mr. BOREN) for bringing this very important matter before the Senate.●

EARLY ANNOUNCEMENT OF THE 1984 FARM PROGRAM

● Mr. BAUCUS. Mr. President, I am a cosponsor of the amendment offered by the distinguished Senator from Oklahoma (Mr. BOREN). Early announcement of the 1984 farm program is an absolute necessity for farmers—they need to plan their operations based on a variety of variables.

Anyone who is familiar with our complex farm programs realizes that farmers must have adequate lead time to plan their year's operations. Ques-

tions like how much fertilizer they will need, how much fuel they should budget for and what crops they should plant all need to be answered. Once a farm plan is developed, a farmer must secure the financing for his operations. All of this takes time.

There is another segment of the agricultural economy that must know what next year's farm program will be—farm supply businesses. Last January 11 Secretary Block announced the payment-in-kind program. After a short 30-day comment period the program was put into operation; 82 million acres of farmland was taken out of production under the PIK program. USDA's estimates show a $4.9 billion decline in production expenditures by farmers as a result of the PIK program.

Agricultural supply businesses had no chance to adjust their inventories with this short of notice. The magnitude of the PIK program is working a real hardship on these businesses as a result of the lack of time to prepare for the program.

The Appropriations Committee, in their report on this supplemental appropriations bill, recognized that the early announcement of the 1984 farm program will help restore the economic stability and viability of agribusiness adversely affected by the 1983 PIK program.

Mr. President, this amendment is not a complicated matter for the Department of Agriculture to deal with. It is an extremely important step for us to take on behalf of the farmers and farm supply businesses who depend on a well-planned operation for their profitability.

I urge my colleagues to support this important amendment.●

Mr. COCHRAN. Mr. President, because of the reasons stated, it is my judgment that the appropriate thing to do is make the point of order, which I shall do. First, though, let me express my appreciation to the Senator from Kansas not only for the contribution that he is making today to help sort out a legislative tangle of sorts to bring the Senate to a decision that is going to serve the interests of farmers who are trying to operate at a profit and to keep their farms in times of economic uncertainty, but also for the work that he does in behalf of the people who pay for the programs that are designed to help create a better economic environment for farmers.

We are confronted with a very serious cost problem. Looking at the figures that are in the agriculture appropriations bill to reimburse the Commodity Credit Corporation for net realized losses, which is a function of our committee, one can readily see that we are putting a lot of strain on the budget because of these farm programs. They are beginning to be quite expensive, and I am afraid taxpayers around the country are going to be asking why Congress cannot restrain the growth of spending in this area as we are trying to restrain the growth of spending in other areas.

I think progress is going to be made. I think we are seeing changes in policy that are bringing about an outlook of hope and optimism in the farm community. I recall that 2 years ago, the thing I kept hearing from farmers was:

We cannot possibly end up in a profit situation because of the high rate of inflation. The costs of production are out of sight. The cost of financing is absolutely impossible to sustain.

Two years ago, three years ago, that is all you would hear when you would talk to a group of farmers—cost of production, cost of money. I would say, Mr. President, that substantial and impressive progress has been made in reducing the growth of these expenses as they apply to farmers.

We have seen interest rates reduced by half; we have seen inflation rates reduced by a much greater percentage than that. I think that because of the PIK program, because of the fact that there was a tremendous amount of participation with farmers voluntarily coming in and signing up to participate in this program, and because it would assure a greater degree of profitability for them, there is for the first time in 3 or 4 years real hope, genuine optimism, and a feeling that things are getting better in the agriculture sector. I hope we can keep it moving forward.

For the reasons stated, Mr. President, I make a point of order against the amendment.

The PRESIDING OFFICER. It is the opinion of the Chair that the amendment offered by the Senator from Oklahoma does in fact amend the Agriculture Act. New duties are imposed on the Secretary. Therefore, it constitutes legislation upon appropriations. The amendment falls.

Mr. BOREN. Mr. President, I do have another amendment I would like to send to the desk at this point. I ask the distinguished chairman if it is necessary again to set aside the pending amendment at this point in order to do so.

The PRESIDING OFFICER. The Chair advises the Senator it would be necessary to set aside all three amendments.

Mr. COCHRAN. Mr. President, I make that request.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the D'Amato and the Weicker amendments be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. I ask unanimous consent that the Chair also set aside temporarily the committee amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. It is set aside.

AMENDMENT NO 1375

(Purpose: To urge the Secretary of Agriculture to announce the 1984 commodity programs for wheat, feed grains, upland cotton, and rice at an early date)

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BOREN. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BOREN) (for himself, Mr. HUDDLESTON, Mr. ANDREWS, Mr. ZORINSKY, Mr. DIXON, Mr. BAUCUS, Mr. PRYOR, Mr. KASTEN, Mr. LONG, Mr. EXON, Mr. BENTSEN, Mr. LEVIN, Mr. JOHNSTON, Mr. BUMPERS, Mr. COCHRAN, Mr. DOLE, Mr. HELMS, Mr. BOSCHWITZ, and Mr. HART.

Mr. BOREN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 125, after line 7, insert a new section as follows:

SEC. 405. It is the sense of Congress that the Secretary of Agriculture should announce the 1984 annual commodity programs for wheat, feed grains, upland cotton, and rice by the dates specified in the following schedule:

(1) For wheat, July 1, 1983;

(2) For feed grains, September 1, 1983;

(3) For upland cotton, November 1, 1983; and

(4) For rice, December 15, 1983.

Mr. BOREN. Mr. President, this is similar wording to the last amendment. I think the last three dates have been changed. The dates are now July 1—still the same—on wheat, and we are rapidly approaching that deadline, and August 15 for feed grains, November 1 for upland cotton and November 30 for rice. The amendment has simply been changed, in light of the ruling of the Chair, to reflect that it is a sense-of-the-Senate expression that the Secretary should move to announce the programs by these dates. I think it is important that we try to send, as strongly as we possibly can, a message to the Secretary that we have the program announced. As I talk to the farmers in my State, it is the point which they raise with greatest frequency and greatest urgency. They need to know what the program is going to be in time to make decisions in regard to their participation in it.

I hope that we can join together to pass this amendment. It reflects much the same sentiment that some of us have previously reflected to the Secretary in the letter which was presented on the floor earlier by my good friend from Kansas. I see the distinguished chairman of the committee also on the

floor, and I know that he shares our concern that we have a program in place and announced as soon as possible.

While there has been some progress made in some ways, as the Senator from Mississippi and the Senator from Kansas have indicated, I think we still have to bear in mind that in terms of the bottom line, which is really what enables the farmer to stay in business or will force him to go out of business, we have not seen any significant improvements in the net income figures. In fact, they are worse than they have ever been.

There are a lot of comments that could be made in terms of why we waited until so late to have a program. Several Senators, including myself, pushed for a pay diversion program. The Secretary was given the authority to have such a program last year. The record is now indicating that had a pay diversion program been adopted, at least in the case of wheat, instead of the payment in kind program, it would have probably been more effective and certainly would have been less expensive than the program which was adopted. But I will not go back over that ground. The mistakes have been made by administrations of both political parties in regard to agricultural policy. Certainly the present administration and the preceding one have made some serious blunders in terms of agricultural policy which have helped to bring us to this point.

I do not think a discussion of how we got to the point at which we now find ourselves is very profitable. The point is that the farmers are in deep trouble. We are going to lose a significant number of family farmers in this country if we do not act. The one thing that the Congress can responsibly do is make sure that we have a timely announcement of a program so that we can begin some long-range planning, so that we can restore certainty into the financial and credit markets that affect agriculture so that we can maximize the number of farmers that can make it through the next 12 months. It is important that we pass this sense-of-the-Senate provision so that we send as strong a message as we possibly can. Then we must be prepared to back it up.

If the Department does not act in a timely fashion—I certainly hope they will; the Secretary assured many of us this last week they would—we have to be prepared if for one reason or another announcement is not made to take further action to require that the program be put in place in time for the farmers and the others who are financially affected by decisions about the farm program to participate in it and to make their own decisions and judgments.

I hope, Mr. President, that we can adopt this amendment and other of my colleagues might want to join with the very significant Members who have already cosponsored this particular amendment.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I do not have a copy of the resolution the Senator from Oklahoma has sent to the desk but as I was listening to the Senator state the dates on which these programs would have to be announced, I thought I heard him say that for rice the announcement date would be November 30, and for feed grains August 15. If that is correct, those are at variance with the provisions of the other amendment that was submitted. I wonder if, just as a point of clarification, the Senator could repeat the dates on which the program should begin.

Mr. BOREN. The Senator is correct. My original amendment some several days ago had earlier dates than the one which I offered immediately prior to offering this amendment, the one which fell under a point of order.

In discussion with the Department I had hoped they would endorse and support mandating the particular date that moved it back to July 1 for wheat. We are rapidly approaching that date. I kept July 1 in this sense-of-the-Senate amendment. I had moved my original provision of August 15 for feedgrain to September 15 in the hope of accommodating the Department. Since this is simply a sense-of-the-Senate amendment, I put back my original date of August 15. Cotton is the same under both, November 1. Rice was December 15, and I have here stated November 30.

Now, the reason for doing that—and I am happy to hear the thoughts of the Senator from Mississippi about it—was to try particularly to help those that are involved in agribusiness.

In the case of feedgrains, I am told by those in the fertilizer industry, for example, that the longer they have to wait to know what the program is, the more difficult it is for them to make decisions and adjustments about production, sales level, stocking of inventories, and the rest.

So really it is out of concern to try to be fair to those businesses that have to make decisions about production levels and inventory levels that I would hope, since we are dealing not with a mandated date but with a sense-of-the-Senate resolution at this point, we adopt dates as early as possible in terms of advising the Secretary. That was my motivation. I did keep cotton the same and I did keep wheat the same as in the immediately preceding resolution as we are fast approaching the July 1 date.

Mr. COCHRAN. Mr. President, I am concerned, because if we leave the August 15 date in the amendment, we are not going to give the Department enough information about the 1983 crop on which to base an accurate decision for the 1984 crop year. As a matter of fact, I am advised by the Department that even with the August crop report for corn, which would not be in hand in time to base a decision if they are required to make an announcement by October 15, does not provide a very accurate indication of the size of the crop.

So additional time is required, not because of some arbitrary decision that is made downtown, but because of the necessity to base a decision on fact—what the carryover is going to be into the next year. The Department is going to be put into a position, if it follows the sense-of-the-Senate resolution, of making a determination based on incomplete information or information that certainly is not going to be very accurate.

Mr. BOREN. Mr. President, will the Senator yield?

Mr. COCHRAN. I yield.

Mr. BOREN. Is it the feed grain date that is giving the Senator from Mississippi the greatest cause for concern—August 15?

Mr. COCHRAN. That seems to me to be the more heinous of the two changes.

I would be happy, as the Senator from Kansas has stated, to join in cosponsoring this amendment. I was hoping I could. I think we share this interest and the same concern that is shown by the letter we have all signed.

Mr. BOREN. I wonder if we could strike a balance between the viewpoint the Senator has expressed and the viewpoint I am offering in this amendment. Would it be agreeable if we changed the date to September 1 instead of the 15th? That puts us between the two dates.

I think that was the date also adopted in the committee report of this bill. It was September 1. I believe that was the date mentioned in the committee report.

Mr. COCHRAN. I hate to argue with the Senator.

Mr. BOREN. I commend the Senator from Mississippi for suggesting the date in the report.

Mr. COCHRAN. Mr. President, the Senator has come up with just the right date. Is the rice date in the report, too?

Mr. BOREN. No, that is not in the committee report.

The Senator from Mississippi is an expert on rice; the Senator from Oklahoma is not. It happens to be one of the very few commodities that we do not grow in quantity in Oklahoma. I would be happy if the Senator, in dealing with the rice date, would take this suggestion.

Mr. COCHRAN. I thank the Senator for being cooperative and understanding about this.

If we could make the change for feedgrains, to September 1 and for rice to December 15, I would hope the Senator could add my name as a cosponsor of the amendment. I would then recommend that the amendment be accepted.

Mr. BOREN. Mr. President, I ask unanimous consent that I may so modify my amendment—September 1 for feedgrains and December 15 for rice.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

Mr. BOREN. I ask unanimous consent that the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Kansas (Mr. DOLE), and the distinguished chairman, the Senator from North Carolina (Mr. HELMS), be added as cosponsors, together with the others already listed as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, before yielding the floor, I should like to commend the Senator from Oklahoma for his leadership in this area. He has identified a problem that needs the attention of the Department and Congress. By working in this way, I believe we have clearly indicated in our review that farmers should be given every opportunity to have early information about farm programs. I think the Senator has done a good job in bringing this up, and I commend him for his efforts.

Mr. DOLE. Mr. President, I thank the Senator from Oklahoma for those changes, and I am pleased to cosponsor the sense-of-the-Congress resolution.

The chairman of the committee will speak for himself, but we have been in touch, trying to work out some of the details. I think this is the appropriate way to proceed.

I know that agriculture needs all the help it can get, but we still have to be responsibile in looking at the costs of these programs.

We are starting to recover from the grain embargo of January 1980. It has taken longer than we thought, but we are getting the pieces back together. As the Senator from Mississippi pointed out, interest rates have been cut in half and inflation is down, but farm prices are still low.

I hope that, in addition to what we are talking about here, we can urge the administration to proceed to a long-term grain agreement, to do everything we can to increase the prices in the marketplace, so that we can decrease the cost of the program to the U.S. Treasury.

Mr. STENNIS. Mr. President, I will take a few minutes of my time.

We have had a splendid debate on this far-reaching matter, and I commend the Senator from Oklahoma for the work he has done on the subject. He is well versed in it. I wish the amendment he has, in that form or in similar form, could have been adopted. It would have been of signal benefit. But I realize that it is difficult to cover the subject, and the ruling of the Chair was perhaps correct.

The Senator realized that and saved the sentiments and the juices of his work by getting it in this amendment, the sense-of-Congress resolution, which I think will be adopted unanimously and lead to a forward step of some proportion.

Most farmers I know and most farm areas I know are in serious condition and are up against conditions which, while not like those during the depression, are of enormous proportions. The road back is going to be hard, at best. There may not be a road back for some.

I believe that those who have engaged in the debate here have made a contribution to the matter, and they have laid the groundwork for a legislative step of real value. I thank them for that.

I do not think anyone on this side of the aisle has any objection to this amendment.

Mr. HATFIELD. Mr. President, there is no objection on this side of the aisle to this amendment by the Senator from Oklahoma.

Mr. BOREN. Mr. President, I thank the distinguished chairman, Senator HATFIELD, and the ranking minority member, the Senator from Mississippi (Mr. STENNIS), for their consideration. I also thank the others who have indicated an interest in this proposal.

By request of Mr. BOREN, the following statement was ordered to be printed in the RECORD:

● Mr. DIXON. Mr. President, farmers will soon be making planting decisions for the 1984 crop year. These decisions will be based in part on the commodity programs announced by the Department of Agriculture. Farm, commodity, and agribusiness leaders have stressed the need for an early announcement by USDA to assure ample time for farmers to act during the fall season. An early announcement will also help restore the economic stability and viability of agribusinesses adversely affected by the 1983 payment-in-kind program.

In my own State of Illinois, the fertilizer industry has been particularly hurt. Indications by the Illinois Fertilizer & Chemical Association, Inc., is that Illinois fertilizer dealers could lose over 30 percent of their sales. This next year will determine how many of these agribusinesses will survive.

We all hope the farm economy recovers quickly, but the farmers' input industries must also survive to properly serve our agricultural production effort. In addition, the economic health of these support industries must be maintained to protect both jobs and the economic viability of rural communities.

Mr. President, an early announcement of the 1984 crop programs is necessary for farmers to plan adequately and help preserve the farmers' vital input industries.●

Mr. BOSCHWITZ. Mr. President, will the Senator yield?

Mr. BOREN. I yield.

Mr. BOSCHWITZ. Mr. President, will the Senator add my name as a cosponsor of the amendment?

Mr. BOREN. Mr. President, I ask unanimous consent that the name of my colleague on the Agriculture Committee, the Senator from Minnesota (Mr. BOSCHWITZ), be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOSCHWITZ. I congratulate the Senator for bringing up this amendment, so that we can bring as much order to the farm program as possible and so that the farmers of the United States may make sensible decisions in advance.

Mr. BOREN. I thank my friend from Minnesota.

Mr. President, I hope that the adoption of this amendment, which will occur shortly, will send a strong message to the Department and that we can work cooperatively in Congress with the Department to have an early announcement of these programs, so that farmers, consumers, and everyone else involved can have the benefit of knowing what the programs are in time to make the decisions that are necessary.

● Mr. HUDDLESTON. Mr. President, this amendment will help farmers and industries that provide vital farm production supplies to make timely decisions for the 1984 crop year.

The amendment provides that it is the sense of Congress that the 1984 crop programs be announced earlier than the dates specified in the 1981 farm bill. Under the amendment, the Secretary of Agriculture would announce the 1984 wheat program by July 1, 1983, and the 1984 feed grain program by September 1, 1983.

Also, the Secretary would announce the 1984 cotton program by November 1, 1983, and the 1984 rice program by December 15, 1983.

This adjustment in the program announcement dates is needed because farmers and farm supply industries need to have adequate time to evaluate the 1984 programs and to make planting and purchasing decisions based on that evaluation.

The late announcement of the 1983 payment-in-kind (PIK) program gave

farmers and farm suppliers little opportunity to plan adjustments for the 1983 crop year. Due to the late announcement of the program, agricultural suppliers, such as fertilizer producers and dealers, were caught with very large surpluses of supplies.

Recently, Mr. Barney A. Tucker from Kentucky expressed to the Senate Small Business Committee the concerns of many farm suppliers regarding the effects of the PIK program on the fertilizer industry. Because the PIK program has dramatically reduced the total volume and consumption of fertilizer, the industry is reporting record losses.

It seems clear that the timing of the program announcements can seriously and adversely affect the fertilizer industry. To alleviate the problems of the industry, and the farm economy as a whole, the programs for the 1984 crops must be announced as early as possible. This amendment provides for timely announcements and I urge my colleagues to support it.●

The PRESIDING OFFICER (Mr. COCHRAN). Is there further debate?

The question is on agreeing to the amendment, as modified.

The amendment (No. 1375), as modified, was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the amendment as agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, we are about ready to wind up the amendments that are available for today. Mr. BUMPERS is out of town. Mr. MELCHER is out of town. Mr. MOYNIHAN is out of town. Mr. QUAYLE is out of town. Mr. WALLOP is out of town. Mr. CRANSTON is out of town.

Mr. BOSCHWITZ is here. I think he is ready to offer his amendment. I believe that will probably be the last amendment of the day.

Mr. President, I ask unanimous consent that the D'Amato and the Weicker amendments be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the committee amendment be temporarily laid aside in order that the Senator from Minnesota (Mr. BOSCHWITZ) be in a position to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1376

(Purpose: To express the sense of the Congress that the Federal Government should maintain current efforts in Federal nutrition programs to prevent increases in domestic hunger)

Mr. BOSCHWITZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Minnesota (Mr. BOSCHWITZ) proposes amendment No. 1376.

Mr. BOSCHWITZ. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, between lines 18 and 19, insert the following new section:

GENERAL PROVISIONS

SEC. . (a) The Congress finds that—

(1) Federal nutrition programs, including the food stamp program, school lunch program, school breakfast program, child care food program, summer food program, special supplemental food program for women, infants, and children (WIC), the commodity supplemental food program, special milk program, and elderly feeding programs, have been effective in reducing hunger and malnutrition in the United States;

(2) the Congress has closely scrutinized and made significant changes in both child nutrition and food stamps over the past two years in an effort to achieve budgetary savings;

(3) current levels of unemployment have greatly increased dependency on Federal, State, and local food programs;

(4) churches and other volunteer organizations in the United States are having difficulty meeting the growing need for food created by poor economic conditions;

(5) the food stamp program provides nutrition benefits to those without the means to obtain a nutritionally adequate diet and is often the only form of Federal assistance available to many unemployed workers;

(6) nutrition benefits to mothers and children at critical periods of growth represent a cost-effective way to reduce infant mortality, low birthweight, and promote long-term health;

(7) nutrition benefits through the school lunch program and other child nutrition programs significantly contribute to the health maintenance and learning potential of our Nation's children;

(8) nutrition programs for elderly people, including the food stamp program, can prolong health, allow for independent living, and preserve the dignity of our Nation's senior citizens;

(9) a Federal role in meeting the nutritional needs of low-income Americans is appropriate since the costs of obtaining an adequate diet do not vary significantly throughout this country; and

(10) a reduction in the Federal Government's commitment to provide adequate nutrition to the needy would cause increasing hardship and hunger to those least able to survive in our society.

(b) It is the sense of the Congress that—

(1) the Federal nutrition programs, including the food stamp, child nutrition, and elderly feeding program, should be protected from budget cuts that would prevent them from responding effectively to nutritional needs in the United States;

(2) the special supplemental food program for women, infants, and children (WIC) should continue to be funded at the full level authorized by law; and

(3) the Federal Government should maintain primary responsibility for nutrition programs.

Mr. BOSCHWITZ. Mr. President, earlier this year Senator JACK DANFORTH and myself, along with seven of our colleagues, introduced a resolution entitled "Preventing Hunger at Home." The resolution expressed our commitment to insuring that Federal nutrition programs are funded at a level allowing them to respond effectively to the nutritional needs of Americans. Currently, that resolution has 58 cosponsors. Mr. President, my amendment today is offered in its stead, though the resolution will remain and perhaps we will take it up at a later date. This amendment is cosponsored by Senators DANFORTH, COHEN, JEPSEN, and KASSEBAUM. Unfortunately, I was not able to reach the other cosponsors of the resolution, but there is no question in my mind that virtually all of them would have cosponsored this amendment had I reached them.

Today, I am offering this amendment because I feel the time is right to once again demonstrate the Senate's concern about protecting funding for nutrition programs.

Right now we are in the midst of the conference on the budget, and passing this amendment will be an excellent signal to the conferees and others.

My amendment essentially does five things:

First, it recognizes that the Federal nutrition programs—food stamps, school lunch, school breakfast, child care food, WIC, and others have been extremely effective in reducing hunger and malnutrition in the United States. I should add to that the congregate dining for the elderly and the Meals on Wheels program specifically because they have been particularly effective.

Second, my amendment recognizes that reductions in Federal aid can cause increasing hardship and hunger to those least able to handle it. Therefore, the amendment expresses the sense of the Senate that: We will protect the nutrition programs from budget cuts that would prevent them from serving the nutritional needs; the special supplemental food program for women, infants, and children (WIC) should continue to be funded at the full level authorized by law; and, the Federal Government should maintain primary responsibility for nutrition programs.

In the face of our still high unemployment, I believe it is necessary to provide reassurance to those dependent on nutrition program, that Congress is indeed committed to providing adequate assistance to the needy.

I urge my colleagues to support my amendment.

Mr. DOLE. Mr. President, will the Senator from Minnesota yield for a question?

Mr. BOSCHWITZ. I yield.

Mr. DOLE. Mr. President, as the chairman of the Nutrition Subcommittee, I think I am in general agreement with the resolution. In fact, I am one of the cosponsors.

Mr. BOSCHWITZ. I believe the Senator is.

Mr. DOLE. It is my understanding and my interpretation of what the Senator proposes that this does not preclude us from monitoring any of these nutrition programs and eliminating any waste or abuse that we may find. We are moving in that direction.

As I understand the thrust of the amendment, it is to assure the people who may benefit from these programs that they can depend upon these programs and that the budget will not be balanced at their expense. However, the nutrition programs are still going to be subject to scrutiny and close review by our subcommittee, by the full committee, by Congress, and by everyone involved, as I understand it.

Mr. BOSCHWITZ. The Senator is correct.

Several of these programs have undergone rather extensive budget reductions, as the Senator from Kansas well knows. A number of the programs have undergone some very meaningful adjustments to make them more efficient in the way they distribute their funds, and I think we have made some important steps in gaining control over the programs, particularly the food stamp program.

So, the Senator's reading and interpretation of the amendment is indeed correct.

Mr. DOLE. I commend the distinguished Senator from Minnesota.

As I look back on the history of the food stamp program, let us face it, it has grown rather tremendously. It may be an economic barometer—when unemployment increases, the cost of the program increases.

There were some changes made during the last 2 years, as I think the distinguished chairman probably knows, that resulted in extensive program reforms. In fact, we adopted about 10 or 11 different provisions that Senator HELMS offered to address the areas of fraud, abuse, and waste—and they are now being implemented.

We are currently being told by the USDA and those who administer this program that they are achieving significant savings in the program, that they are uncovering fraud, that people are being prosecuted, and we should continue to press for program reforms.

Where we find waste, abuse, and fraud in the program and, where we find people participating in the program who really should not be in the program, we should aggressively correct the problems. Obviously we have an obligation to those who really need food stamp benefits to make certain that they are being reached. And we have a responsibility to the taxpayers generally, because they pay for the program. I applaud this initiative by the Senator from Minnesota, and am pleased to be a cosponsor of the original resolution, which was introduced early this session.

Mr. BOSCHWITZ. I thank the Senator from Kansas. He is indeed correct in his assessment that we must continue our oversight, our statutory duty indeed, and I agree that on the food stamp program, that it did have that mighty swerve upward in cost. As a matter of fact, it increased in a 12- or 13-year period 170 times or about 17,000 percent, but we have made some constructive changes in it.

Mr. HELMS. Mr. President, I commend the able Senator from Kansas (Mr. DOLE) and, of course, the able Senator from Minnesota (Mr. BOSCHWITZ) for the colloquy which they have engaged in.

Mr. President, there are some inside and outside of Congress, who mistakenly hold the impression that this resolution is a statement of opposition to further reductions in spending for the food stamp and child nutrition programs. A careful, objective reading of the resolution makes clear that the only reductions to which the Senate is expressing an opinion are those which, if enacted, "would prevent them—the programs—from responding effectively to nutritional needs in the United States."

It should be remembered that none of the budget reductions made during the 1981 or 1982 Reconciliation Acts had an adverse impact on the ability of these nutrition programs to respond effectively to nutritional needs of low income citizens in the United States. Rather those bills were aimed at targeting these benefits precisely to those who should be served by them—the poor who, through no fault of their own, are unable to care for themselves.

The common perception seems to be that large reductions were made in the food stamp program in past years. That is not accurate. The best that can be said is that the rate of growth has been slowed. The program continues to cost more each year than it did the year before. More people are being served by it each consecutive year.

Even those reductions which have been made have been exceedingly reasonable. The largest reduction in the 1981 bill for food stamps, for instance, was to provide that food stamp recipients should receive benefits on a pro rated basis, depending on the time of month in which they applied for benefits. Previously, households were entitled to a full month's benefits even if they applied during the last few days of the month. It was obvious that such recipients could not eat retroactively.

Hence Congress, in response to a report from the Senate Appropriations Committee which first called attention to this excess, established pro rated benefits. It is a good example of how improved management can result in large savings. The Congressional Budget Office estimated that the new pro rata system would save a half a billion dollars annually. The proposal has worked so well that in 1982 the same principle was applied to other Federal programs.

The other major cost-saving change was to delay the indexing of food stamp benefit increases. As noted in an April 29 study by the Congressional Budget Office, the savings resulting from delaying the indexing of benefits were significantly overstated.

Additionally, the 1981 act delayed indexing of deductions, and established, for the first time, a gross income ceiling for food stamp participation at 130 percent of the poverty line. The cumulative effect of these changes was to tighten program eligibility and reduce the rate of growth in the cost of the program—which had resulted in large part because of the liberal indexation policies which had existed in the program.

The 1982 reconciliation bill made very modest changes in the food stamp program and none in the child nutrition programs. Again indexing of the food stamp benefits was a primary method of attempting savings, by establishing the increase at 1 percent under the rate of food price inflation. Other savings were achieved by administrative tightening of the program, including an improved definition of eligible households, rounding down benefit calculations to the nearest lower whole dollar, and pro rating of the standard utility allowance.

The major food stamp change in 1982, as in 1981, did not come from an across-the-board reduction. Rather, in 1982, the largest savings in the bill was from the imposition, for the first time, of an error rate sanction system to require States to lower their overissuance error rates to certain levels or else reimburse the Federal Government for errors above those levels.

In both years, a primary objective of the legislative changes has been to tighten program administration in order to prevent abuses of the program. Tighter verification of eligibility, more stringent penalties for abuse—by both recipients and retail stores—and greater latitude to collect fraudulent overissuances have been important new tools added to the food stamp legislation.

The primary reduction in the school lunch and breakfast programs has been to reduce the Federal subsidy going to nonneedy children. Many people are unaware that such a large portion of the Federal support for the school feeding programs are actually provided regardless of the income of the children served. Inasmuch as over

half of all lunches are served to nonneedy children, it is obvious that significant savings could be made—and have been made—without impacting poor children at all. Even with the reductions made by the 1981 act, a significant subsidy continues to those who are not needy. But the point I want to emphasize is that the effect of the changes has been to increase the percentage of Federal dollars going to recipients who are poor.

For instance, the percentage of Federal dollars going for need-based programs in the child nutrition area has increased from 58 percent in fiscal year 1980 to 73 percent in the present fiscal year.

FISCAL YEAR 1984 ADMINISTRATION PROPOSALS

The administration's proposals for the next fiscal year in the food stamp and child nutrition areas would also be of a nature that would not conflict with the resolution's admonition against budget cuts that would prevent the programs from responding effectively to nutritional needs.

Again, the largest proposed reduction in the food stamp program does not come at the expense of even one penny from recipients. Rather, it is from improving the error tolerance rate which was established last year. The administration's proposal would set 3 percent as the tolerance level. Overissuance errors above that amount would have to be reimbursed by the States to the Federal Government. The objective is to require States to concentrate their attention and their resources on reducing the unacceptably high level of errors in the food stamp program. The 3-percent level is the same as that provided last year for the AFDC and medicaid programs.

Other administration proposals would considerably simplify the administration of the food stamp program and thereby contribute to more efficient administration and fewer mistakes, saving both Federal and State administrative expenses and Federal benefit costs.

Importantly, the food stamp proposals contain a provision to require workfare for able-bodied food stamp recipients. This provision would "adversely" affect only those able-bodied recipients who refuse to accept community service employment in exchange for their food stamp benefits.

Consistent with the government-wide delay in indexing this year, food stamp benefit increases and child nutrition reimbursement rate increases would be postponed for 6 months.

The primary savings in the child nutrition area comes from the elimination of funding for day care homes within the child care food program. A recent study by the Department of Agriculture has concluded that these homes are no longer serving primarily poor citizens but rather that over two-thirds are nonneedy. The remainder of the child care food program is to be combined with the breakfast and summer feeding programs into a block grant. States will be able to determine the type of nutrition assistance to be provided from the funds contained in the consolidated block grant.

Additionally, a minor change has been recommended in recomputing the indexation of the reduced price reimbursement rate for the school lunch program. The other reform proposal is to improve the verification of eligibility for the school lunch program by having applications for free and reduced price lunches verified by local food stamp offices.

These are hardly policies which would adversely impact on low-income Americans.

NO POVERTY-BASED HUNGER

I would also like to address the context in which this amendment is being considered. The stated or sometimes implied context is that somehow we are witnessing a resurgence of hunger in this country. A drumbeat of anecdotal stories apparently has convinced many that a massive problem exists throughout the country. There is no objective, rational, or scientific basis for this perception.

Unemployment has been higher than either anticipated or preferred. However, the existing Federal feeding programs have responded to this need, as they were intended to do. Participation in the food stamp program has increased to meet the needs of those who are newly unemployed who are poor. The program is not meant to serve those, even if unemployed, who are not poor. And this is the point. There is no basis to state or imply that poverty-based hunger exists in the United States today. What hunger or malnutrition which exists is often self-imposed by poor eating habits, but not through inability to purchase food or obtain food assistance.

For instance, much attention has focused on the laudatory efforts of churches and private organizations that have established various feeding programs. However, it should be remembered that in most such instances there is no eligibility criteria to determine whether all of those served are low income. Nor is there any method to determine whether, in fact, many of those served are not also receiving some degree of Federal feeding assistance.

Most stories of adversity have centered around isolated individuals or areas. Attempts have been made, quite successfully, to project these cases as the general rule rather than rare exceptions. But the facts simply do not support this generalization.

Dr. George Graham, professor of human nutrition and pediatrics at the Johns Hopkins University, probably best summarized the current state of nutrition in the United States during recently conducted subcommittee hearings. Said Dr. Graham:

All the evidence indicates that the nutritional status of our people, including low-income groups, is very good and continually getting better, and that the greatest threat to their health lies in overnutrition.

The Department of Agriculture is spending approximately $18 billion on various Federal feeding programs. I wonder just how much money people would think is "enough" if this is not.

INFANT MORTALITY

Mr. President, another subject which often arises in a discussion of nutrition is that of infant health and infant mortality. Inordinate attention has focused on a totally unsubstantiated report published earlier this year by the Food Research and Action Center which purported to show "that the steady decline in infant mortality rates is being reversed in recession-hit cities and states." These conclusions have been accepted as fact by many in Washington, although, again, the facts do not warrant this interpretation.

Dr. Edward N. Brandt, Jr., Assistant Secretary for Health, has clarified that the national infant mortality statistics show a continuation of the decline of recent decades. He has pointed out that annual fluctuations within States—and smaller subdivisions, such as cities—are not unusual. The overall pattern has been consistently downward. There is no apparent reversal of this pattern, contrary to the FRAC report's implications.

Dr. Alvin M. Mauer, chairperson of the Committee on Nutrition of the American Academy of Pediatrics and director of St. Jude's Children's Research Hospital, shares Brandt's assessment. "The fluctuations that were observed in infant mortality data can easily be explained by random variation."

Dr. Donald A. Cornely, chairman of the Department of Maternal and Child Health at the Johns Hopkins University, also questioned the statistical significance of the FRAC figures:

Fluctuation in infant mortality rates on an annual basis within states and cities are overwhelmingly due to the combination of infant death being a relatively rare event and the small number of live births occurring in many states and most cities in a single year.

Dr. Roy M. Pitkin, head of the Department of Obstetrics and Gynecology at the University of Iowa, has described the statistics cited in the FRAC report as "much too preliminary to permit any firm conclusions."

WIC PROGRAM

One further point. I know that many of my colleagues support, without qualification, the special supplemental food program for women, infant, and children, popularly called

WIC. The assertion is often made that the WIC program has been responsible for lowering infant mortality rates, for improving birth weights, and otherwise contributing to good health for low-income mothers and their infants and children. Indeed, the resolution makes these assertions.

Granted, some research has come to these conclusions. However, there is not necessarily a consensus on the program's effectiveness and specifically not with regard to its connection with infant mortality rates. Dr. David Rush, professor of pediatrics and of obstetrics and gynecology at the Albert Einstein College of Medicine in New York, recently testified before the Nutrition Subcommittee about the WIC program. "We cannot assert with any certainty," he stated, "whether there has been change in the health and nutritional status of poor pregnant women and their children over these last few years."

He elaborated:

We do not know whether the WIC Program has been effective, either on the surrogate measure of birthweight, or the more important outcomes of survival, or hematologic, somatic, behavioral, and intellectual change in the child. We do not even know whether the ongoing nutritional and other behaviors of the family have been modified.

Regarding infant mortality, Dr. Mauer has noted that since the introduction of the WIC program:

There is little, if any, indication of a change in the slope of the decreasing infant mortality curves following the beginning of the WIC program * * *. From the available data it is impossible to conclude much of anything concerning the influence of WIC during the past decade on infant mortality rates.

Dr. Cornely has noted:

One would judge the time to be too brief to associate any decline in the infant mortality rate with the appearance of the WIC Program. Far more important, however, is the question of whether if a decline in the infant mortality rate be demonstrated, should it be causally associated with the WIC Program?

So, I would caution Senators about overstating the significance of the WIC program. The jury is still out in the medical and nutritional community about its effectiveness.

I take the time to question some of the findings contained in the resolution in order to observe that by no means all professionals in the medical and nutrition fields concur with the statements which are made as if factual.

There has been little research at all on whether these programs do, in fact, improve nutrition. What little research has been done has been primarily with respect to the school lunch program, where findings have been generally favorable. Of course, it must be remembered that this is the largest nutrition program in which there is no income-based means test for participation. Research in other programs, especially the food stamp program, is sparse, and what little information does exist is inconclusive with regard to nutritional effectiveness.

While many of these programs were created to address the perceived needs of hunger, there is little substantiated documentation about the extent to which poverty-based hunger has ever existed in the recent past in the United States and even less about how much, if any, these Federal programs have improved the situation.

It is interesting to note how much discussion goes on about alleged, but undocumented, hunger and malnutrition when, in fact, according to almost all nutrition authorities, the primary nutrition-related problem in the United States, even among low-income Americans, is obesity.

While one would hope that Federal expenditures of over $18 billion a year spent on these programs are doing something to improve the nutritional health of our citizens, it is the concern that they may not, that adds to my lack of enthusiasm for the premises on which this resolution seems to rest.

Mr. BOSCHWITZ. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER (Mr. JEPSEN). Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Minnesota.

The amendment (No. 1376) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, I ask unanimous consent that I may be a cosponsor of the original Boren amendment that was filed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. I thank the Chair.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1377

(Purpose: To meet mandatory pay raise costs for the ACTION Agency)

Mr. WEICKER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an amendment numbered 1377.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 117, after line 7, insert the following:

ACTION

"Operating expenses", $250,000;

Mr. WEICKER. Mr. President, this amendment will provide the ACTION Agency with funds to meet that portion of the October Federal pay raise that cannot be absorbed within the existing fiscal 1983 appropriation.

The administration belatedly submitted this pay supplemental just prior to floor action on the pending bill. It is my understanding that the funds are needed to maintain agency operations and to avoid furloughing staff.

I urge adoption of the amendment.

Mr. STENNIS. Mr. President, there is no opposition on this side of the aisle.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Connecticut (Mr. WEICKER).

The amendment (No. 1377) was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RUDMAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The majority leader.

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BAKER. Mr. President, I have been seeking for 5 days for some way to finish the supplemental appropriations bill this week and have the concluding vote on Tuesday. I still hope for the final, concluding vote on Tuesday. But I stand here now as a man prepared to confess that I have failed to make the arrangement. I must report to the Senate that it does not appear possible to get a unanimous-consent agreement limiting the number of amendments. Therefore, I

will not propose such a request at this time.

Mr. President, we still have other measures, the cable TV bill and two other appropriations bills, to deal with next week. There is a time limitation on only one of those measures, the cable TV measure.

Mr. HATFIELD. Mr. President, I would like to comment that today we have spent 1 hour 20 minutes in quorum calls during the consideration of the supplemental appropriations bill.

● Mr. LEVIN. I would like to discuss for a moment with the Senator from South Dakota, who is the chairman of the Treasury, Postal Service Subcommittee, a situation which has developed in my State of Michigan and which is within the jurisdiction of the subcommittee.

The General Services Administration has recently eliminated the only Federal protective officer from the Saginaw, Mich., Federal building.

There is no alternative security available in Saginaw, despite GSA claims of a move toward "electronic surveillance equipment." In fact, last week—the first week that no protective officer was present—an individual was assaulted in the building.

This facility is frequented by many homeless who use the building as a community washroom. Workers in the building are seriously concerned about their personal safety throughout the day, and last week's incident leaves these individuals with justified cause for their fears.

I understand that the House Committee is prepared to propose some language to rectify this problem during the conference on this funding bill. Can the Senator from South Dakota provide me with some assurances that you will work with that body to take steps to restore a security officer at the Federal building in Saginaw, Mich.?

Mr. ABDNOR. I can appreciate the Senator's concern about security in Federal office buildings, and I give him my assurance that I will work with the conferees from the other body to try to see if we can arrive at some resolution of the problem to which he refers.●

(By request of Mr. HATFIELD, the following statement was ordered to be printed in the RECORD:)

● Mr. GARN. Mr. President, I would just like to make some brief comments concerning chapter VI of the fiscal year 1983 appropriations supplemental bill (H.R. 3069). Chapter VI contains several positions involving the agencies under the jurisdiction of the HUD-Independent Agencies Subcommittee. Pages 62 through 71 of the Senate Report No. 98-148 explains, in some detail, the committee's actions concerning these items. The following briefly summarizes the actions of the committee:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS: ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The House bill contains general reprograming language, which would permit the Department to request changes in the program levels that are specified for assisted housing in the jobs bill (Public Law 98-8). The Department's reprograming request would require the approval of both of the Committees on Appropriations. The committee is concerned that the administration might be reluctant to exercise the House provision because of the constitutional issue of a one-House veto.

The Senate retains the general reprograming language proposed by the House and adds language to permit the Department to use recaptures for specific problems already identified by the Department and cited in the committee's report.

The committee believes that this specific authority will enable the Department to expeditiously address these issues, while retaining the House's general reprograming language for other less pressing program adjustments.

HUD—RENT SUPPLEMENT/SECTION 236

The House bill sets aside funds over a 30-year period to accommodate cost increases in rent supplement and rental housing assistance program. The Senate bill retains the House proviso which applies funds to cover future amendment requirements for these programs. The House and Senate action assures that the estimated 33,700 State-aided non-FHA-insured units will not be lost from the assisted housing inventory and that the projects will not default on the bonds.

The Senate also added language delying the effective date of the 10-percent State agency cost sharing until October 1, 1983—fiscal year 1984. The effect of the Senate language would be to permit State agencies time to develop a cost-sharing plan.

HOUSING FOR THE ELDERLY OR HANDICAPPED

The House bill contains two provisions that would prohibit the Department from implementing its rules published on March 18, 1983, relative to section 202 cost savings.

The Senate removes the provision thereby permitting the Department to implement competitive bidding and thus effect cost savings.

The committee believes that the central reason for the use of competitive bidding in section 202 project development is cost containment. Competitive bidding is used throughout the Federal Government as the standard method for obtaining the lowest and best price on construction projects.

The committee notes that its action is consistent with the vote in the Senate Committee on Banking, Housing, and Urban Affairs.

HUD—PAYMENT FOR OPERATION OF LOW-INCOME HOUSING PROJECT

The House bill defers $69,000,000 of fiscal year 1983 public housing subsidy funds until October 1, 1983. These funds were proposed for rescission by the administration. The Senate retains the House language in order to partially offset fiscal year 1984 operating subsidies. The Senate also included a new provision that would make any additional amounts, in excess of the fiscal year 1983 requirements, available for use in fiscal year 1984.

The Committee included this provision based on recent testimony by the Secretary indicating that an additional $80,000,000 may be available above and beyond the fiscal year 1983 performance funding system requirements.

HUD-FHA LIMITATION ON GUARANTEED LOANS

The Senate bill includes language increasing the Federal Housing Administration (FHA) fund limitation on guaranteed loans by $5,000,000,000. The committee was recently informed by HUD that on the basis of the Department's latest projections that the FHA commitment level may exceed the current limitations by $5,000,000,000. The committee believes that without this increase in the limitation, the FHA program could be shut down during the peak of the housing season.

URBAN RENEWAL GRANTS

The House bill included $6,000,000 to closeout the Cambridge, Mass., urban renewal project. The Senate deleted this provision. The committee notes that there are 24 urban renewal projects which are currently active; 16 of the projects will require some additional amount of funding to complete their activities. The committee takes exception to the earmarking of funds for only one of these communities. The committee further notes that the proceeds from land sales and community development block grants can be used by these communities in lieu of urban renewal grants.

EPA—SALARIES AND EXPENSES

The House bill provides for $6,800,000 as an EPA pay supplemental. The Senate provides for $11,128,400. The committee notes that this supplemental appropriation will provide sufficient funds to cover EPA's salaries and expenses without further reducing the agencies' operating expenses below the operating plan approved by the committees of both Houses.

EPA—HAZARDOUS SUBSTANCE RESPONSE TRUST FUND

The House bill increases the administrative expense limitation on the Superfund by $2,000,000 with $500,000 of

the funds being designated for travel. The committee notes that the increase is necessary to continue onsite assessments and remediation at Superfund high priority sites. The committee further notes that the increased limitation will fund an additional 46 workyears to accelerate priority enforcement and cleanup activities such as is required in the areas of dioxin contamination.

CIC—REVOLVING FUND

The Senate bill includes language establishing a Consumer Information Center revolving fund. The committee notes that the bill language provides for deposit of moneys received as a result of newly instituted charges into a revolving fund to provide a more business-like operation of the Center's activities. The committee further notes that language requires that deposits shall be identified by source and reported semiannually to this committee.

VA—MEDICAL CARE

The House and Senate bills provided the requested program supplemental of $2,280,000 for VA medical care. The funding will support the expansion of the existing affiliation between the Meharry Medical College and the Murfreesboro Veterans' Administration medical center.

VA—CONSTRUCTION, MAJOR PROJECTS

The House and Senate bills contain $254,000,000 for the replacement hospital at Minneapolis and $9,400,000 for the clinical addition at Cleveland.

The committee notes that the conference agreement on the 1983 bill (Public Law 97-272) directed that funding for the two construction projects would be included in the first available appropriation legislation and that no additional construction projects would be added in fiscal year 1984 to compensate for the advanced funding of these hospitals.

The committee further notes that both of these hospitals are included in the VA's fiscal year 1984 budget request.●

(By request of Mr. HATFIELD, the following statement was ordered to be printed in the RECORD:)

FULL FUNDING OF STATE-FINANCED RENT SUPPLEMENT AND RENTAL ASSISTANCE FY 1983 AMENDMENTS

● Mr. TSONGAS. Mr. President, I state for the record my belief that the Appropriations Committee, at the initiation of Senator D'AMATO, has taken a positive step with regard to the funding of non-insured, State-financed section 236 projects which are assisted under the rent supplement and rental assistance payments programs. It is my understanding that the committee has mandated HUD to fully fund in fiscal 1983 all necessary amendments to rent supplement and rental assistance payments contracts which have been made available in connection with State-financed section 236 projects. I further understand that the Department will be required to fund each year 90 percent of the amendment amount required for each of these projects beginning in fiscal year 1984. Although I believe the committee has taken a necessary and a proper step in this regard, I would like to focus on my concern that OMB and HUD carry out the program by fully funding these necessary amendments as directed by the Congress upon the enactment of this legislation. It has been my experience in the past that OMB has strained to invent statutory ambiguities or uncertainty, so let there be no mistake, in this instance, that it is Congress clear intention in this legislation that HUD, upon enactment of this measure, fully fund all outstanding amendments in fiscal year 1983 for these projects. Am I correct that this is the committee's intention and will be the Congress clear intention on enactment of this legislation?

Mr. GARN. I very much appreciate the Senator's expression of support for the committee's action in assuring full funding of this year's amendment requirements for these projects. The Senator is absolutely correct that it is our intention that HUD fully fund all outstanding amendments in fiscal year 1983 upon enactment of this legislation and that we are firmly stating our resolve that this be done.

Mr. D'AMATO. Will the Senator yield?

Mr. GARN. I yield.

Mr. D'AMATO. I fully appreciate and certainly concur with the remarks and concerns raised by my colleague from Massachusetts, Senator TSONGAS. I reiterate my concern regarding this issue and completely endorse the comments of the chairman and thank him for his assistance in seeing this matter equitably resolved.

Mr. GARN. I appreciate the Senator's comments. I believe that the committee and the Congress are taking a positive step toward resolving this problem and urge the Department to honor and respect the clear intention of the Congress in this matter.●

LEGISLATIVE PROVISIONS IN H.R. 3069, SUPPLEMENTAL APPROPRIATIONS FOR 1983

● Mr. STAFFORD. Mr. President, the Congress labored long and hard last fall to pass the Surface Transportation Assistance Act of 1982. That legislation increased spending for the Federal-aid highway program from $8 billion per year to over $12 billion per year. This additional money should go a long ways in meeting the States highest priorities for road and bridge construction and repair.

I believe the Federal-aid highway program is one of the best examples we have of a successful Federal-State-local partnership. And the program has worked most cost effectively when State and local governments have had the responsibility of determining which projects have priority.

The Federal-aid highway program is unique. It is funded by contract authority from the Highway Trust Fund established pursuant to the Highway Revenue Act of 1956. The Committee on Environment and Public Works has jurisdiction over the Federal aid highway program. The programs authorized by the committee under title 23 provide obligational authority to the Federal Highway Administration without the necessity of an appropriation first being made. The Committee on Environment and Public Works has both authorizing and spending jurisdiction over this program.

The role of the Appropriations Committee in this process is to appropriate from the Highway Trust Fund the liquidating cash necessary to pay the vouchers of the States for work completed after the obligation has been incurred.

H.R. 3069 contains several provisions which I believe infringe on the jurisdiction of the Environment and Public Works Committee and which can have serious implications for the Federal-aid highway program.

H.R. 3069 appropriates $6.4 million for the reconstruction of an interchange at the intersection of Vista Boulevard and Interstate 80 near Sparks, Nev. While I understand that the city of Sparks feels some urgency for undertaking this project, I must point out to my distinguished colleague from Nevada that there is no authorization for this project.

The Surface Transportation Assistance Act of 1982 increased the level of funds for the Interstate 4R program from $800 million to $1.95 billion in fiscal 1983. The Vista Boulevard interchange is eligible for these Interstate 4R funds. According to information we have received from the Department of Transportation, the major problem with the interchange is one of geometrics. The larger trucks, in particular, have problems negotiating the interchange. Because of changes made by the 1980 Highway Act which increase truck lengths and widths, these will be many interchanges across the country where these larger vehicles will have difficulty. Additional Interstate 4R funds have been provided to address these kinds of problems.

H.R. 3069 also contains a provision which makes $5 million available from section 144 of title 23 for the design and engineering phase of the Talmadge Memorial Bridge replacement project in Savannah, Ga.

The bridge replacement and rehabilitation program was substantially increased in the STAA of 1982 to address the tremendous bridge needs in all the States. All but $200 million of each year's bridge authorization is apportioned to the States on October 1

by formula. Each year $200 million is made available to the discretionary bridge program which was established to fund those bridges that are in urgent need of repair, pose a threat to public safety, and are a very high priority within the State.

Many bridges have waited in line several years for this discretionary money. While I sympathize with my distinguished colleague from Georgia, every State in this Nation has identical problems. I must point out that there is no authorization for this specific project and I do not believe it is appropriate to take funds away from other projects which have been patiently waiting for funds.

Finally, Senate Report 98-148 accompanying H.R. 3069 contains a list of projects which are eligible for funding under the park roads and parkways category. The Surface Transportation Assistance Act of 1982 provided contract authority from the Highway Trust Fund for this category and also provided that these funds must be allocated by the Department of Transportation in cooperation with the Department of Interior by a formula based on relative need. The list in the report was supplied by the Department of Transportation and the National Park Service and represents their priority listing on the basis of needs as required by Public Law 97-424.

The Committee on Environment and Public Works, which authorized the contract authority for the park roads and parkways program, believes it is very important that these funds continue to be allocated according to the formula required by Public Law 97-424.

Mr. President, as chairman of the Environment and Public Works Committee which has both authorizing and spending jurisdiction over the Federal-aid highway program, I do not believe the supplemental appropriations bill is an appropriate vehicle for authorizing highway projects.

Mr. President, I wish to express my deep concern over a number of provisions contained in the supplemental appropriations bill (H.R. 3069). The bill reported by the Senate Committee on Appropriations contains 17 legislative items affecting water resources. Many are also contained in the House bill. These are provisions that infringe directly upon the jurisdiction of the Committee on Environmental and Public Works.

I recognize that there has not been a major water resources bill to become law since 1976. We have come close to enacting such legislation, but the Congress has failed.

Letters have been circulated arguing that these legislative items in H.R. 3069 are a reaction to inaction by the Committee on Environment and Public Works.

That is clearly an unfair characterization for several reasons. First, 11 of the 17 legislative items in the Senate bill have never been brought to the attention of the Committee on Environment and Public Works by either the corps or individual members. Very few, if any, can be categorized as emergency items.

The total first cost of these provisions is $85,000,000, with an estimated annual cost thereafter of $8,800,000. I think you will agree with me that cost levels of that magnitude are not minimal.

Most important, however, the Committee on Environment and Public Works is moving forward to report an omnibus water resources bill. We have held several days of hearings on items to be included in an omnibus bill. Four additional days of omnibus hearings are scheduled during this month, beginning on the 15th. The distinguished chairman of our Subcommittee on Water Resources (Mr. ABDNOR), is committed to enactment of such legislation. Our committee has reported a shell bill (S. 1289), which will be used to bring such an omnibus bill to the floor.

To help my colleagues understand this issue more completely, I believe it would be helpful if I discussed each of these legislative items, which begin on page 24 of the bill, line 23:

Chicago Sanitary and Ship Canal, Ill. This provision expands the description of the waterway in order to shift the operating responsibility for the waterway to the Federal Government from the local authorities. The cost is estimated at $500,000 in additional annual Federal maintenance. The House version of H.R. 3069 includes this item.

Bayou Rigolette, La. This provision authorizes channel clearing work at a cost of $500,000. The House bill includes this provision, which has never been brought to the attention of the Committee on Environment and Public Works.

Wallisville Reservoir, Tex. This language modifies the authorization, requiring an expenditure of $28 million to complete project. The House bill includes this item.

Bayou Pierre and the Buffalo River, Miss. This provision authorizes a study at an undetermined cost. The language appears to require a positive recommendation; not a study of feasibility. This item is not in the House bill nor has it ever been brought to the committee's attention.

Franklin Ferry Bridge, Ala. This language provides an authorization to rebuild a bridge and widen a navigation channel, although the required environmental impact statement has not been completed. The cost is listed at $4,000,000. The House bill includes this item; it, however, had never been brought to the committee's attention.

Columbia River. This language requires the entrance of the river to be deepened to 55 feet for its first 2,000 feet. The cost is $5,300,000 for this initial work, and it increases annual maintenance by an estimated $2.2 million. This item is not in the House bill, nor has it been brought to the committee's attention.

Ventura Marina, Calif. This provision requires reimbursement for local work on the marina. The cost is $82,000. it is included in House bill, but it was never brought to our committee's attention.

Flat River Channel, La. This item would reimburse local agencies for expenditure on channel improvements, at a cost not to exceed $3,500,000. This item is neither in the House bill nor has it been brought to our committee's attention.

Lewiston-Clarkston Bridge, Idaho-Washington. This provision authorizes the construction of an approach road on the Washington side of the bridge. It raises the authorization for the bridge by $800,000, plus uses a like sum left over from the original authorization. This is a part of the House bill.

Architect and engineering contracts. This provision requires awarding of contracts in accordance with Federal Property and Administrative Services Act. While this item is a part of the House bill, it was never brought to the committee's attention.

Corps police protection. This provision makes an attack on corps personnel a Federal crime. This is not a part of the House bill.

Corps uniform allowance. This provision raises the uniform allowance for corps officers to $400 a year from its present $125. The increased annual cost is $300,000. This item is a part of the House bill, but it was never brought the to committee's attention.

Volunteer services. This permits the corps to use volunteers. It is a part of the House bill. It was never brought to our committee's attention.

Moriches and Shinnecock Inlets, New York. This provision requires that the project's navigational features shall go forward ahead of other features, including erosion control. The construction cost is $18 million. Language would also make maintenance costs 100 percent Federal, a change from the 50/50 cost sharing in the original authorization. This item was included in the House bill.

Aquatic plant control. This provision raises the annual authorization level by $5,000,000. It is a part of the House bill.

Pearl River, Miss. This provision authorizes the corps, at a cost of $26,500,000, to design, construct, and build a flood protection project at Jackson, Miss. It is not a part of the

House bill, nor was it ever brought to the committee's attention.

Crater Lake, Alaska. This provision authorizes the corps to start construction on the Crater Lake phase of the Snettisham hydroelectric project near Juneau, Alaska. This item is not in the House bill, nor was it ever brought to the committee's attention.

Mr. President, the inclusion of these provisions in the supplemental bill of course has drawn the attention of other Members who are not on the Appropriations Committee. They of course would like to follow the lead of the Appropriations Committee members and include projects of their own in this bill. However, they have recognized the jurisdiction of the authorizing committee. Senator RANDOLPH, my distinguished ranking member on the Environment and Public Works Committee, and I have been consulted about the amendments offered on the floor. They are merely clarifications of existing corps authority, and have been before the committee. Consequently, although technically these provisions do not belong on this bill, we recognized the members concerns.

Nevertheless, Mr. President, the role of the Appropriations Committee in the water resources area is to provide funding for items authorized by the Committee on Environment and Public Works. This process has been established to insure that the Congress has completed substantive policy and financial review of Federal expenditures in this area. Inclusion of these legislative provisions in the supplemental appropriation bill infringes on our jurisdiction. The supplemental is not an appropriate vehicle on which to consider legislation.●

INTERNATIONAL TRADE DEVELOPMENT

● Mr. JOHNSTON. Mr. President, I wish to discuss with the distinguished chairman of the Commerce, Justice, State, and the Judiciary Appropriations Subcommittee language which I intended to offer during the full committee's markup of this supplemental appropriations bill. During that markup, I proposed language which would have directed the Commerce Department to set aside a planning grant in an amount not to exceed $200,000 to facilitate an effort on the part of a consortium of our Nation's minority owned commercial banks to establish an entity authorized by the Export Trading Company Act of 1982. Unfortunately, I was unable to discuss this proposal with the distinguished chairman of the subcommittee before the markup and therefore agreed to withdraw my language and give our respective staffs an opportunity to negotiate appropriate language to accomplish the objective of the consortium which is to establish a facility offering a full range of export trade services.

Mr. LAXALT. I recall the proposed language which the Senator offered during the markup by the full Appropriations Committee, and I thank him for his courtesy in withdrawing the language at that time. Since the markup of the supplemental appropriations bill, our staffs have met concerning the effort to establish a minority bank affiliated export trading company. I have been informed that a meeting with officials of the Commerce Department was held to determine whether an administrative solution could be reached.

Mr. JOHNSTON. The Senator is correct. My staff did meet with officials from the Commerce Department and I have been informed that the consortium concept for minority bank involvement in international trade through an export trading company structure was favorably received. At the same time, it is my understanding that the Commerce Department has several programs which may be used both for the planning and implementation of the minority bank affiliated facility.

I have also received correspondence from the Secretary of Commerce expressing his willingness to assist the minority bankers. He has suggested that a delegation meet with Charles Warner, Director of the Office of Trading Company Affairs, to further discuss the initiative of the minority bankers.

I encourage the distinguished chairman of the subcommittee to closely monitor these meetings with officials of the Commerce Department to insure that the discussions lead to expedited actions on the part of the Department to assist the planning, development and operation of the minority bank affiliated export trading company. It is my desire that the proposed program be in place at the time of the Louisiana World Exposition which begins in May of next year.

Mr. LAXALT. I share with the Senator from Louisiana the view that participation of minority banks in international trade is highly desirable. Minority banks are institutions through which minority entrepreneurship can be developed and enhanced. I support his efforts to assist in every appropriate way the participation of minority banks in international trade.

Mr. JOHNSTON. I thank my colleague for his remarks and trust that this colloquy will be viewed by officials in the Commerce Department as an indication that the use of fiscal years 1983 funds may be appropriately used to assist the consortium.

Mr. LAXALT. So long as the consortium qualifies under the guidelines of the various programs, I agree with my colleague.

Mr. JOHNSTON. I thank the distinguished chairman for his comments.●

BANKRUPTCY TRUSTEES

Mr. HATCH. Mr. President, the Administrative Office of the U.S. Courts has removed Robert Clendenen of Salt Lake City from the panel of chapter 7 trustees serving the bankruptcy court for the district of Utah. I bring this matter to the attention of the Senate because I believe the decision was wrong, has no basis in law and because of the possible national ramifications of this decision.

Mr. Clendenen is the executive vice president of the intermountain affiliate of the National Association of Credit Management, which is known as NACM Intermountain. Several hundred Utah manufacturers, distributors, and banks are members of NACM Intermountain. This organization of business creditors has been around for more than 80 years.

For 81 years, U.S. district judges and bankruptcy judges in my State have appointed NACM Intermountain or its executive officers as trustees in bankruptcy cases.

Now, the Administrative Office says that Mr. Clendenen or other NACM Intermountain executives cannot meet a legal standard of trustee disinterestedness when appointed in cases where some of the creditors are dues-paying members of the association.

For this reason, not for any breach of his trustee responsibility, he was removed. I am concerned that the Administrative Office in this case is applying a standard that is unfair, unworkable and, in fact, neither provided for nor contemplated in the Bankruptcy Code.

Mr. DOLE. Will the Senator yield? I sent a letter to the Administrative Office in January of this year on this matter. I agree with the Senator from Utah that the disqualification of Mr. Clendenen is the result of a misinterpretation of the law.

When the Judiciary Committee was developing the Bankruptcy Reform Act, which we passed in 1978, we considered conflict of interest questions and there are many provisions that protect debtors and creditors from such situation.

I cannot see that in a case like this, where there is no actual violation of trustee responsibilities, that any action, let alone such drastic action as Mr. Clendenen's disqualification, is warranted.

Mr. HATCH. The whole issue developed as a result of the Utah bankruptcy clerk's contention that Mr. Clendenen could not meet the standard of disinterestedness.

The clerk specifically said that he was not alleging that Mr. Clendenen or his predecessors "have ever actually preferred association members over nonmembers in a bankruptcy." Indeed, the clerk said that the association has "served the court well." The clerk said, and I quote:

It has always associated expert bankruptcy counsel. It has, at times, sued members to

recover preferences in bankruptcy. I am told that it has lost some members because of this. However, I do not believe that proves there is no conflict of interest. It simply shows that the professionalism of NACM manager(s) and bankruptcy counsel, the conflict has been overcome by affirmative effort.

In removing Mr. Clendenen for this reason, the Administrator misinterpreted 11 U.S.C. section 701(a). That section requires that a trustee appointed in a chapter 7 case be a "disinterested person." Such a person is defined in section 101(13), which spells out what are unavoidable conflicts of interest. The only relevant portion of the definition provides that a "disinterested person" is one that:

Does not have an interest materially adverse to the interest of the estate or any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor or an investment banker. . . .

This "materially adverse" standard has been applied by bankruptcy judges and U.S. district judges in Utah for more than 81 years in appointing NACM Intermountain or its executives as trustees, consistently finding, by necessity, no interest materially adverse to the estate arising out from the association's member composition.

The Administrator's action with regard to Mr. Clendenen emanated solely from the clerk. The bankruptcy judges in this district did not initiate the request and they are not parties to it. Indeed, the judges in the district continue to appoint this association executive as trustee in chapter 11 cases, which is the responsibility of judges, who are bound to apply the same standard of disinterestedness used by the Administrator in the appointment of chapter 7 trustees.

I am concerned that application across the board of the standard of disinterestedness proposed by the Administrator's decision, which finds no support in statute, would adversely affect the ability to enlist other panel trustees, not only in Utah, but also in many other regions of the country.

Other panel trustees, who are lawyers, routinely represent creditor clients both in and out of bankruptcy court. These clients may be creditors in cases assigned to an individual trustee in a "blind rotation" system. The problems suggested by the administrator's decision are much more real for an attorney trustee than for an association, because an attorney has a direct and confidential relationship with his client.

To accept the decision of the administrator would call into question the qualifications of not only every lawyer trustee in Utah, but the majority of such trustees across the Nation, unless such trustees were willing to forgo or severely limit their private practices. This would place an unwarranted burden on any lawyer willing to serve as trustee.

Mr. DOLE. I agree with Senator HATCH. Back in January, when I wrote the Administrative Office, I said the following:

If you believe that this situation is serious enough to warrant removal of this person in Utah from the panel even though he has done nothing to adversely affect any parties at interest in the cases on which he has served as a trustee, perhaps the Congress should study this question. We respectfully ask that in the event you so believe, that you defer from making a decision until Congress can review the matter.

On May 5, 1983, the Administrative Office advised me that it was removing Mr. Clendenen from the panel for cause, even though there is nothing in the record that calls Mr. Clendenen's service as a trustee into question.

Senator HATCH, I am sorry that this situation could not have been addressed in the manner in which I proposed to the Administrative Office in January. I believe the Administrative Office has misinterpreted the law.

My subcommittee has been receiving a number of complaints about the apparent inability of the Administrative Office to deal with clerical matters relating to bankruptcy court caseloads around the country. As you know, yesterday, the Senate had to get involved with postage used to send out notices to creditors.

Perhaps, we should have a hearing on the efficiency and economy of the operations of the Administrative Office.

Mr. HATCH. Would the chairman of the Courts Subcommittee consider amendments to the Bankruptcy Code that would address the unfortunate situation presented by Mr. Clendenen's removal?

Mr. DOLE. We will.

Mr. HATCH. Thank you.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, to extend not past the hour of 4 p.m., in which Senators may speak.

GENETIC ENGINEERING

Mr. HATFIELD. Mr. President, on Wednesday morning, June 8, a sizable number of the Nation's religious leaders issued a call for Congress to prohibit genetic engineering of the human germline cells. The resolution calls for a prohibition on the use of specific technology with the warning that the long-term detrimental moral and ecological consequences outweigh any perceived short-term benefits.

On July 22, 1982, the New York Times editorialized about the question "of whether the human germline should be declared inviolable deserves close attention" because "deliberate manipulation of the human germline will constitute a watershed in history, perhaps even in evolution. It should not be crossed surreptitiously, or even before a full debate has allowed the public to reach an informed understanding of where scientists are leading. The remaking of man is worth a little discussion."

As many know, it was my awesome and troubling privilege to be one of the first Americans into Hiroshima after the atomic bomb was dropped. I wandered the leveled neighborhoods of that once beautiful Japanese city with the dreadful sense of ambivalence. My life as a landing craft commander likely was spared because the bomb precluded the need for a bloody assault on Japan. But I could not help but wonder what dangers lurked beyond the devastation before me. E. B. White said it best for me when he wrote, "The quest for the substitute for God was suddenly ended. The substitute turned up, and who do you suppose it was? It was man himself * * * man stealing God's stuff."

With atomic weapons, we have the ability to destroy creation, to divest the Creator of His prerogatives. And now it appears that humankind is on the verge of another idolatry in taking the stuff of God into our own hands with the ability to recreate life in our own image. In my view, the nuclear arms race is the ultimate abrogation of power. And at the same time, the science of genetic engineering is rushing us toward the ethical questions inherent in our ability to change the very nature of created life.

Recently, I had an enlightening and troubling 3-hour conversation with several of the Nation's top geneticists. It is likely that soon not only genetic corrections—somatic engineering—will be commonplace, but that sex cell gene removal and replacement—eugenic engineering—will be possible. No one knows the long-range implications of offspring born of eugenically engineered individuals. One would be called anti-Galileo to stand against progress that would relieve the world of sickle cell anemia, diabetes, and Downs syndrome. But as Dr. David Baltimore from MIT said in a recent U.S. News & World Report article:

Scientists really have only two choices: Either stop doing science entirely or take the risk that your work might be misused. Science finds what it finds and hands that over to society. It is up to society to use it intelligently, scientists can play a major role in interpreting and explaining their results, but in the end we have to live with the fact that we can create things that will have consequences that are very unpleasant to us. That is the chance we take.

In other words, his apparent unsettling view is that science must proceed unobstructed—no matter what the horrors, monsters, and genies, and

then allow the various forces for good or ill in society to sort out the applications and implications.

It appears that the sin of Adam has given us more of the knowledge of God than we can responsibly handle. No one I know is wise enough, even though certainly endowed with sufficient cleverness, to play God in the decision of how to make humankind more perfect. For example, is it wise by genetic manipulation to make people smarter by improving IQ? Bigger, by use of growth hormones? Livelier, so it will be natural to live past 100? Or prettier, by whatever definition?

In reality, without proper ethical approaches now—the issue will be decided by commercial pragmatics and market forces. The fifth biggest stock offering in the history of the corporations was by Cetus in 1981—a genetic engineering company that went public and raised $120.2 million. What is to prevent us from fulfilling the Huxleyian specter of a biologically designed caste system which would genetically sort the alphas, betas, gammas, and deltas for certain social and economic functions?

A return to slavery is a possibility unless public and private institutions enter into the dialog with vigor. A well-informed public is a safeguard against the arrogance of the laboratory that says there is no responsibility here, or that says there might be, but we do not know how. Some geneticists are urging pressing ahead with some accountability structure that would deal with unrestrained marketplace or research beyond the reach of scrutiny.

The option we in the general society must persistently put forth is the one that life is sacred and inviolable. Just because we can create and destroy life does not mean we should seize the stuff of God. There is a way of perceiving things beyond just the what of things—the why of the created order is also essential.

I have struggled with the eugenics issue a good deal since the July 1982, New York Times editorial. Is it appropriate for Congress to pass legislation that would forbid certain kinds of genetic engineering especially as it affects the germline and thus future progeny? In my search for answers, I have consulted a number of experts in the fields of genetics and ethics. My conclusions are not yet fully formed, but I do want to encourage my colleagues in Government and the public to engage in an informed debate with the hoped-for result that an effective ethics commission, quasi-independent agency, appropriate sanction, or worldwide moral consensus could be developed that would protect us from becoming enslaved to another uncontrollable demon. We need public hearings across the country on the issue. Let us not regulate until we have decided whether we want to go ahead at all. I want to commend the religious leaders who have raised this issue now to the public consciousness, and I want to commend the scientists who simultaneously have been meeting in the Capitol, and at the National Academy of Science, and elsewhere, to seek accountability on this urgent matter. My heartfelt concern is that we will not run off half informed and stir people's fears unduly, impose legislation that will be counterproductive later, or be so apathetic that technology will once again outstrip the human ability to control it. For the sake of all, let us engage our best minds, hearts, and energies around this crucial issue.

Mr. President, I ask unanimous consent that the "Theological Letter Concerning the Moral Agreements" that was released at the religious leaders press conference be printed in the RECORD for the purpose of discussion, along with the list of supporters of the proposed resolution to ban the engineering of specific genetic traits into the germline of the human species.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUPPORTERS OF THE RESOLUTION [1]

Rev. James T. Draper, Jr., President, Southern Baptist Convention.

Rev. James R. Crumley, Jr., Presiding Bishop, Lutheran Church in America.

Bishop A. James Armstrong, President, National Council of Churches.

Dr. Polycarp Kusch, Nobel laureate, Regental Professor Emeritus, University of Texas.

Rev. Arie R. Brouwer, General Secretary, Reformed Church in America.

Dr. George Wald, Nobel laureate, Professor of Biology, Harvard University.

Rev. Robert W. Neff, General Secretary, Church of the Brethren.

Father Richard McCormick, S.J., Professor of Christian Ethics, Kennedy Institute.

Dr. Richard Lovelace, Professor of Church History, Gordon-Conwell Theological Seminary.

Rev. Henry Nouwen, Harvard Divinity School.

Most Rev. Leroy T. Mattheisen, Roman Catholic Bishop, Diocese of Amarillo, Texas.

Dr. Jay Kesler, President, Youth for Christ/U.S.A.

Jeremy Rifkin, Director, Foundation on Economic Trends, Author, Algeny.

Bishop Finis A. Crutchfield, President, Council of Bishops, The United Methodist Church.

Rev. Robert C. Campbell, General Secretary, American Baptist Churches.

Pat Robertson, The 700 Club, President, Christian Broadcasting Network.

Rev. Kenneth L. Teegarden, General Minister and President, Christian Church (Disciples of Christ).

Most Rev. John F. Whealon, Roman Catholic Archbishop, Archdiocese of Hartford, Conn.

Rev. Ivan J. Kauffmann, General Secretary, Mennonite Church.

Dr. Richard C. Halverson, Chaplain United States Senate.

Most Rev. James D. Niedergeses, Roman Catholic Bishop, Diocese of Nashville, Tennessee.

Dr. Carl F. H. Henry, Founder, Christianity Today.

Jim Wallis, Editor, Sojourners Magazine.

Most Rev. Walter F. Sullivan, Roman Catholic Bishop, Diocese of Richmond, Virginia.

Dr. J. Robert Nelson, Professor of Theology, Boston University.

Dr. Sheldon Krimsky, Professor of Environmental Policy, Tufts University.

Most Rev. James W. Malone, Vice-President, U.S. Catholic Conference.

Rt. Rev. John M. Allin, Presiding Bishop, The Episcopal Church of America.

Rev. Avery Post, President, United Church of Christ.

Most Rev. John L. May, Roman Catholic Archbishop, Archdiocese of St. Louis, Missouri.

Dr. Jerry Falwell, Founder, Moral Majority.

Dr. Liebe Cavalieri, Sloan-Kettering Institute.

Dr. Ethan Signer, Professor of Biology, M.I.T.

Most Rev. George A. Fulcher, Roman Catholic Bishop, Diocese of Lafayette, Indiana.

Dr. Ted W. Engstrom, President, World Vision.

Dr. Ruth Hubbard, Professor of Biology, Harvard University.

Rev. Voy M. Bullen, Bishop and General Overseer, The Church of God.

Rabbi Ira Silverman, President, Reconstructionist Rabbinical College.

Most Rev. Mark J. Hurley, Roman Catholic Bishop, Diocese of Santa Rosa, California.

Most Rev. Thomas J. Drury, Roman Catholic Bishop, Diocese of Corpus Christi, Texas.

Most Rev. Edward J. Herrmann, Roman Catholic Bishop, Diocese of Columbus, Ohio.

Dr. Dale Brown, Professor of Christian Theology, Bethany Theological Seminary.

Most Rev. Thomas J. Mardaga, Roman Catholic Bishop, Diocese of Wilmington, Delaware.

Most Rev. Jerome J. Hastrich, Roman Catholic Bishop, Diocese of Gallup, New Mexico.

Tom Hess, Director, Christian Restoration Ministries.

Dr. Kurt Mislow, Professor of Chemistry, Princeton University.

Wes Granberg-Michaelson, Author and Former Managing Editor, Sojourners Magazine.

Most Rev. Paul V. Donovan, Roman Catholic Bishop, Diocese of Kalamazoo, Michigan.

Most Rev. Joseph J. Madera, Roman Catholic Bishop, Diocese of Fresno, California.

Most Rev. William G. Connare, Roman Catholic Bishop, Diocese of Greensburg, Penn.

Most Rev. Raymond A. Lucker, Roman Catholic Bishop, Diocese of New Ulm, Minnesota.

Most Rev. Frank J. Rodimer, Roman Catholic Bishop, Diocese of Patterson, New Jersey.

Dr. John Perkins, President Emeritus, Regent College.

[1] Organization affiliation used for identification purposes only.

Most Rev. Loras J. Watters, Roman Catholic Bishop, Diocese of Winona, Minnesota.

Fr. Richard Rohr, O.F.M., Pastor, New Jerusalem Community.

Most Rev. George A. Hammes, Roman Catholic Bishop, Diocese of Superior, Wisconsin.

Most Rev. Rene H. Gracida, Roman Catholic Bishop, Diocese of Pensacola-Tallahassee.

Most Rev. Daniel E. Sheehan, Roman Catholic Archbishop, Archdiocese of Omaha, Nebraska.

Dr. James I. Packer, Professor of Theology, Regent College.

THE THEOLOGICAL LETTER CONCERNING THE MORAL ARGUMENTS AGAINST GENETIC ENGINEERING OF THE HUMAN GERMLINE CELLS

While the nation has begun to turn its attention to the dangers of nuclear war, little or no debate has taken place over the emergence of an entirely new technology which in time could very well pose as serious a threat to the existence of the human species as the bomb itself. We are referring to human genetic engineering. On July 22, 1982 the New York Times published a major editorial entitled "Whether to Make Perfect Humans." It will soon be possible, says the Times, to fundamentally alter the human species by engineering the genetic traits of the sex cells—the sperm and egg. Humanity's new found ability to engineer genetic traits could well lead to the creation of a new species, as different from homo-sapiens as we are to the higher apes. So grave is the threat of human genetic engineering that the Times suggests that we consider "the question of whether the human germline should be declared inviolable."

Programming genetic traits into human sex cells subjects the human species to the art of technological manipulation and architectural design.

With the arrival of human genetic engineering, humanity approaches a crossroads in its own technological history. It will soon be possible to engineer and produce human beings by the same technological design principles as we now employ in our industrial processes.

The wholesale design of human life, in accordance with technological prerequisites, design specifications, and quality controls, raises a fundamental question. Nobel laureate biologist Dr. Salvador Lauria puts the question in its most succinct context when he asks "When does a repaired or manufactured man stop being a man . . . and become a robot, an object, an industrial product?"

The debate over genetic engineering is similar to the debate over nuclear power. For years the nuclear proponents argued that the potential benefits of nuclear power outweighed the potential harm. Today an increasingly skeptical public has begun to seriously question the basic presumption.

In a similar vein, proponents of human genetic engineering argue that the benefits outweigh the risks and that it would be irresponsible not to use this powerful new technology to eliminate serious "genetic disorders." The New York Times editorial board correctly addressed this conventional scientific argument by concluding in its editorial that once the scientists are able to repair genetic defects "it will become much harder to argue against adding genes that confer desired qualities, like better health, looks or brains." According to the Times, "There is no discernible line to be drawn between making inheritable repairs of genetic defects, and improving the species."

Once we decide to begin the process of human genetic engineering, there is really no logical place to stop. If diabetes, sickle cell anemia, and cancer are to be cured by altering the genetic make-up of an individual, why not proceed to other "disorders:" myopia, color blindness, left handedness. Indeed, what is to preclude a society from deciding that a certain skin color is a disorder?

As knowledge about the genes increases, the bio-engineers will inevitably gain new insights into the functioning of more complex characteristics, such as those associated with behavior and thoughts. Many scientists are already contending that schizophrenia and other "abnormal" psychological states result from genetic disorders or defects. Others now argue that "antisocial" behavior, such as criminality and social protest, are also examples of malfunctioning genetic information. One prominent neurophysiologist has gone so far as to say "there can be no twisted thought without a twisted molecule." Many sociobiologists contend that virtually all human activity is in some way determined by our genetic make-up and that if we wish to change this situation, we must change our genes.

Whenever we begin to discuss the idea of genetic defects there is no way to limit the discussion to one or two or even a dozen so called disorders because of a hidden assumption that lies behind the very notion of "defective." Ethicist Daniel Callahan penetrates to the core of the problem when he observes that "behind the human horror at genetic defectiveness lurks . . . an image of the perfect human being. The very language of 'defect,' 'abnormality,' 'disease,' and 'risk,' presupposes such an image, a kind of prototype of perfection."

The question, then, is whether or not humanity should "begin" the process of engineering future generation of human beings by technological design in the laboratory.

What is the price we pay for embarking on a course whose final goal is the "perfection" of the human species?

First there is the ecological price to consider. It is very likely that in attempting to "perfect" the human species we will succeed in engineering our own extinction. Eliminating so-called "bad genes" will lead to a dangerous narrowing of diversity in the gene pool. Since part of the strength of our gene pool consists in its very diversity, including defective genes, tampering with it might ultimately lead to extinction of the human race. It should be recalled that in the 1950's genetic modifications were made in wheat strains to create bumper crops of "super wheat." When a new strain of disease hit the fields, farmers found that their wheat was too delicate to resist. Within two years, virtually the entire crop was destroyed.

We have not doubt that a similar effort to "perfect" the human species by eliminating the so called bad genes would prove equally destructive. This simple biological fact is so patently obvious that one begins to wonder why it is so conveniently ignored by so many of the "experts" in the scientific community. Even Dr. Thomas Wagner, the scientist at Ohio University who is responsible for the first successful transfer of a gene trait from one mammalian species to the embryo of another mammalian species, has gone on record as being opposed to genetic engineering of the human germline cells because of the potentially devastating effect that such narrowing of genetic diversity might have on the ability of the human species to survive in the future. Dr. Wagner says,

"It is a terrible mistake to make a permanent, heritable change, even if it appears to be for the better, in a human being's genetic make-up. We don't know what the future brings, and we don't understand fully the process of evolution. Any species of animal needs a certain degree of diversity, some of which appears negative, in order for it to survive into the future. I don't think we should be manipulating the genetic material beyond the individual generation of the human involved."

Then there is the question of eugenics to carefully consider. Eugenics is the inseparable ethical wing of the Age of Biotechnology. First coined by Charles Darwin's cousin, Sir Francis Galton, eugenics is generally categorized into two types, negative and positive. Negative eugencis involves the systematic elimination of so-called biologically undesirable characteristics. Positive eugenics is concerned with the use of genetic manipulation to "improve" the characteristics of an organism or species.

Eugenics is not a new phenomenon. At the turn of the century the U.S. sported a massive eugenics movement. Politicians, celebrities, academicians and prominent business leaders joined together in support of a eugenic's program for the country. The frenzy over eugenics reached a fever pitch with many states passing sterilization statutes and the U.S. Congress passing a new emigration law in the 1920's based on eugenics considerations. As a consequence of the new legislation, thousands of American citizens were sterilized so they could not pass on their "inferior" traits and the Federal government locked its doors to certain emigrant groups deemed biologically unfit by then existing eugenics standards.

While the Americans flirted with eugenics for the first thirty years of the twentieth century, their escapades were of minor historical account when compared with the eugenics program orchestrated by the Nazis in the 1930's and 40's. Millions of Jews and other religious and ethnic groups were gassed in the German crematoriums to advance the Third Reich's dream of eliminating all but the "Aryan" race from the globe. The Nazis also embarked on a "positive" eugenics program in which thousands of S.S. officers and German women were carefully selected for their "superior" genes and mated under the auspices of the state. Impregnated women were cared for in state facilities and their offspring were donated to the Third Reich as the vanguard for the new super race that would rule the world for the next millenium.

Eugenics lay dormant for nearly a quarter of a century after World War II. Then the spectacular breakthroughs in molecular biology in the 1960's raised the spectre of a eugenics revival once again. By the mid 1970's, many scientists were beginning to worry out loud that the potential for genetic engineering might lead to a return to the kind of eugenics hysteria that swept over America and Europe earlier in the century. Speaking at a National Academy of Science forum on recombinant DNA, Ethan Signer, a biologist at MIT, warned his colleagues that:

"This research is going to bring us one more step closer to genetic engineering of people. That's where they figure out how to have us produce children with ideal characteristics . . . Last time around, the ideal

children had blonde hair, blue eyes and Aryan genes.

The concern over a re-emergence of eugenics is well founded but misplaced. While professional ethicists watch out the front door for tell tale signs of a resurrection of the Nazi nightmare, eugenics doctrine has quietly slipped in the back door. The new eugenics is commercial not social. In place of the shrill eugenic cries for racial purity, the new commercial eugenics talks in pragmatic terms of medical benefits and improvement in the quality of life. The old eugenics was steeped in political ideology and motivated by fear and hate. The new eugenics is grounded in medical advance and the spectre of extending the human life span.

Genetic engineering, then, is coming to us not as a threat, but as a promise; not as a punishment but as a gift. And here is where the true danger lies. If the Brave New World comes, it will not be forced on us by an evil cabal of self-serving scientists and Machiavellian politicians. On the contrary, what makes opposition to the Brave New World so difficult is the seductive path that leads to it. Every new advance in human genetic engineering is likely to be heralded as a great stride forward, a boon for humankind. Everyone of the breakthroughs in genetic engineering will be of benefit to someone, under some circumstance, somewhere in society. And step by step, advance by advance, we human beings might well choose to trade away the spontaneity of natural life for the predictability of technological design until the human species as we know it is transformed into a product of our own creation; a product that bears only a faint resemblance to the original.

How important is it that we eliminate all the imperfections, all the defects? What price are we willing to pay to extend our lives, to insure our own health, to do away with all of the inconveniences, the irritations, the nuisances, the infirmities, the suffering, that are so much a part of the human experience? Are we so enamored with the idea of physical perpetuation at all costs that we are even willing to subject the human species to rigid architectural design? Is guaranteeing our health worth trading away our humanity?

What is the price we pay for medical advance, for securing our own physical well being? If it means accepting the idea of reducing the human species to a technologically designed product, then it is too dear a price.

Ultimately, there is no security to be found in engineering the human species, just as we have now learned that there is no security to be found in building bigger, more sophisticated nuclear bombs.

Perhaps, if we had taken the time to look at the long range implications of our work in nuclear physics forty years ago, we might well have decided to restrict or prohibit the research and development of nuclear weaponry. Today we have the opportunity to look ahead and envision the final logical consequences of our work in genetic engineering. The question is whether we will choose to do so.

It is our hope that this resolution will represent a watershed in our thinking concerning science and technology. For the first time, it affirms the right of humanity to say no to the application of its own scientific knowledge. Just because something can be done is no longer an adequate justification for assuming it should be done or that it can't be stopped from being done.

We believe we have a sacred obligation to say no when the pursuit of a specific technological path threatens the very existence of life itself.

It is with this thought in mind that we now turn to you for support of this resolution.

In deciding whether to go ahead or not with human genetic engineering we must all ask ourselves the following question. Who should we entrust with the authority to design the blueprints for the future of the human species? In the words of the Nobel laureate biologist George Wald, "Who is going to set those specifications?"

Human genetic engineering presents the human race with the most important political question it has ever had to contend with. Who do we entrust with the ultimate authority to decide which are the good genes that should be engineered into the human gene pool and which are the bad genes that should be eliminated?

Today the ultimate exercise of political power is within our grasp; the ability to control the future lives of human beings by engineering their characteristics in advance; making them a hostage of their own architecturally designed blueprints. Genetic engineering represents the power of authorship. Never before in history has such complete power over life been a possibility. The idea of imprisoning the life span of a human being by simply engineering its genetic blueprint at conception is truly awesome.

Aldous Huxley's spectre of a biologically designed caste system with its alphas, betas, gammas and deltas looms on the horizon. Our society must now ponder whether to give sanction to this fundamental departure in how human life is formed. In examining this issue, we would ask everyone to consider one simple question. Would we trust the Congress of the U.S. with the ultimate authority to decide which genes should be engineered into the human gene pool and which should be eliminated? Would we entrust the executive or judicial branch with such authority? Or the corporations and the marketplace? Or the scientists and the medical community?

Who do we designate to play God? The fact is, no individual, group, or set of institutions can legitimately claim the right or authority to make such decisions on behalf of the rest of the species alive today or for future generations.

Genetic engineering of the human germline cells represents a fundamental threat to the preservation of the human species as we know it, and should be opposed with the same courage and conviction as we now oppose the threat of nuclear extinction.

We would like your support for this proposed resolution to prohibit the engineering of genetic traits into the germline of the human species.

LEO McMULLEN RECEIVES ROLL CALL CONGRESSIONAL STAFF AWARD

Mr. BAKER. Mr. President, I want to take this opportunity to congratulate Leo McMullen of the Senate Sergeant at Arms Office, for being selected as the 24th recipient of the Roll Call Congressional Staff Award. In awarding the honor to Leo, Roll Call editor Sid Yudain cited Leo's efforts on behalf of charitable causes and for his contributions toward furthering a spirit of community within the Congress.

All of us in the Senate are proud of Leo for this recognition. He has dedicated himself to the causes of others unselfishly, and has raised millions of dollars for the Children's Hospital, the Boy Scouts and other organizations that are part of many of our daily lives.

For the past 6 years, Leo has served as assistant director of telecommunications in the Senate, and I am sure that Howard Liebengood, the Senate Sergeant at Arms would agree with me that we are fortunate to have Leo's services.

TRIBUTE TO DAVID BRUCE MILLER

Mr. THURMOND. Mr. President, I want to express my deep sadness at the loss of a good and valued friend and a great American, David Bruce Miller, who together with Robert Buettgenbach, died tragically this week in a plane crash at an international air show in Mildenhall, England.

To his lovely wife, Mary Aimee; his two daughters and two sons; other family members; and David's colleagues at the Beech Aircraft Corp., where he and Robert Buettgenbach were employed, I want to extend my deepest condolences.

I rise to pay tribute to David Miller today because he was more than my friend; he was an exceptional man who was respected by everyone who knew him, including myself. However, those who knew David Miller will always remember him as a highly decorated Navy combat flyer, a man who loved his country and served it with great distinction, and, most importantly, as a man who loved his family and his God.

Mr. President, I would like to take a moment to share with my colleagues some of the highlights of this man's remarkable life and career as a naval officer and pilot.

David Miller began his Navy career in 1946, earning his wings 2 years after entering the service. He attained the rank of captain before he retired from the service in 1979 to work for Beech Aircraft Corp., in its governmental affairs office here in Washington.

During his military career, David Miller flew virtually every type of Navy aircraft, from both air bases and carriers. He served two tours in Vietnam, the first as an attack squadron commander aboard the U.S.S. *Bonhomme Richard,* and completed 240 combat missions before returning to the United States in 1968.

Before his retirement, David Miller had flown 5,900 hours of missions, almost all of them in single-piloted aircraft. His decorations for distinguished military service are numerous: the Silver Star, two Legions of Merit,

four Distinguished Flying Crosses, an Air Medal with a gold star, and the Vietnamese Cross of Gallantry. Those are just some of the 29 citations he received while serving in the Navy.

A graduate of the University of California at Berkeley and a member of the prestigious academic fraternity of Phi Beta Kappa, David Miller also served as an instructor at several naval air stations, and following his tours of duty in Vietnam, was assigned to the Pentagon to be head of the budget and legislative branch of the Office of the Deputy Chief of Naval Operations. In 1971, he was named president of the Red River Valley Fighter Pilots Association, and was later stationed in Naples, Italy, as Chief of Staff for the Southern Europe Commander Strike Force of NATO.

Captain Miller also directed Navy life support equipment programs before his retirement—drawing upon his experience as a veteran pilot to help insure that other Navy airmen had adequate safety equipment.

His service at the Beech Aircraft Corp. was also distinguished. He brought to that company a wealth of experience and knowledge about aircraft and a solid dedication to building reliable, safe, and modern planes. I know that his service at Beechcraft and his friendship with many people at that fine company will be greatly missed.

In addition, David Miller will be missed by his many friends in McLean and in nearby Arlington, where he and his family attended church.

Mr. President, there are more interesting aspects of David Miller's life and career that I would like to share with my colleagues. It is for that reason that I ask unanimous consent that two newspaper articles about him, in the Washington Times and the Washington Post, be included in the RECORD at the conclusion of my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 6, 1983]

DAVID MILLER DIES IN CRASH AT AIR SHOW

David Bruce Miller, 55, a Beech Aircraft Corp. official who was a retired Navy captain and a decorated combat flyer, died May 29 in a plane crash at Mildenhall, England.

The Associated Press reported that Capt. Miller and Robert Buettgenbach, 59, of Augusta, Kan., who both worked for Beech Aircraft, died when the plane they were flying, a T34-C Mentor trainer, crashed during a demonstration at the International Air Fete at the RAF base at Mildenhall. The accident is under investigation.

Capt. Miller began his Navy career in 1946, and earned his wings two years later. Over the years, he flew both fighters and attack aircarft from carriers and air bases. Between 1965 and 1968, he served two combat tours in Vietnam, the first as commander of an attack squadron and the second as commander of a carrier air wing aboard the *Bonhomme Richard*. He flew A4 Skyhawks and F8 Crusader aircraft and participated in 240 combat missions.

In 1968, he was promoted to captain and came to Washington as head of the budget and legislative branch in the office of the Deputy Chief of Naval Operations. He accompanied the Blue Angels, the Navy's precision flying team, as director of their 1974 tour of Europe. He also served as chief of staff to the commander of Strike Force, Southern Europe, and as executive director of the Chief of Naval Operations' Aircrew Survivability Enhancement Program.

He retired from active duty in 1979 and joined Beechcraft later that year. At the time of his death, he was manager of the company's aerospace aircraft marketing division in Washington.

His decorations included the Silver Star, two Legions of Merit, four Distinguished Flying Crosses, and 22 Air Medals.

Capt. Miller, who lived in McLean, was a native of Galesburg, Ill. He was a graduate of the University of California at Berkeley, where he was a member of Phi Beta Kappa, and earned masters' degrees in international affairs and administration at George Washington University. He was a graduate of the Naval War College and the Industrial College of the Armed Forces.

He was a member of Walker Chapel United Methodist Church in Arlington, where he served on the finance committee and had been president of the Methodist Men's Club. He was a Mason.

Survivors include his wife, Mary Aimee, and four children, Linda Louise, Claude Harold, Monique Josette, and Eric Christopher Miller, all of McLean; his mother, Vera Milehem Miller of Camp Point, Ill.; a brother, Richard Neale Miller of Southfield, Mich., and a sister, Catherine Louise Anzelc of Joliet, Ill.

[From the Washington Times, June 6, 1983]

DAVID BRUCE MILLER, 55, RETIRED AS NAVY CAPTAIN

Funeral services for retired Navy Capt. David Bruce Miller, manager of aerospace aircraft marketing in Washington for the Beech Aircraft Corp., will be held at 11 a.m. today in the Old Fort Myer Chapel, with burial in Arlington National Cemetery.

Capt. Miller, 55, a resident of McLean, died May 29 in an air accident following an air show in Mildenhall, England.

One of Beech's top test pilots, Capt. Miller had more than 34 years of flight and administrative posts with the Navy and was one of the Navy's top administrators and coordinators in training naval aviators and flight officers. He oversaw the 1974 European tour of the Blue Angels precision flying team.

Capt. Miller was active in community and civic affairs. Recently elected president of the Methodist Men's Club of Walker Chapel in Arlington, he also served on the church finance committee. He was a 32nd degree Mason.

Capt. Miller was born in Galesburg, Ill. He began his career as a pilot in 1948 after receiving his wings as an aviation midshipman at age 20. He was commissioned an ensign the next year and flew A-1 Skyraiders from the Oceana Naval Air Station in Virginia and from the carrier Coral Sea.

Capt. Miller received a B.A. degree in psychology from the University of California at Berkeley in 1958 and was elected to Phi Beta Kappa. He received his M.A. in international affairs and M.S. in administration, both from George Washington University.

During his Navy career, Capt. Miller was an instructor at several naval air stations and was assigned to a number of carriers.

In 1965 on his first combat tour in Vietnam, Capt. Miller commanded Attack Squadron 144, flying A-4 Skyhawks.

He later was attack training officer on the staff of the commander of the Naval Air Pacific Fleet and then commander of Carrier Air Wing 5, serving his second combat tour aboard the carrier *Bonhomme Richard*.

Assigned to the Pentagon in 1968, Capt. Miller was head of the budget and legislative branch of the office of the deputy chief of naval air operations. In 1971, he was named president of the Red River Valley Fighter Pilots Association and in 1972 he attended the Industrial College of the Armed Forces here.

In the mid-1970s, he was stationed in Naples, Italy, as chief of staff for Commander Strike Force, Southern Europe, an assignment involving coordination of logistics and operational plans for the North Atlantic Treaty Organization.

He returned here to direct Navy programs on life support equipment and aircrew survivability.

Capt. Miller joined Beech in 1979 after retiring from the Navy with almost all of his 5,900 flying hours in single-piloted aircraft. His awards included the Silver Star, two Legion of Merits, four Distinguished Flying Crosses, 22 Air Medals, four Navy Commendation Medals and the Vietnamese Cross of Gallantry.

He is survived by his wife, Mary Aimee; two daughters, Linda Louise and Monique Josette; two sons, Claude Harold and Eric Christopher; his mother Vera Milehem Miller of Camp Point, Ill., a brother, Richard N., of Southfield, Mich., and a sister, Catherine L. Anzelc of Joliet, Ill.

The family suggests that expressions of sympathy be in the form of contributions to Walker Chapel, 4102 N. Glebe Road, Arlington, VA., 22207.

AN AUDIENCE WITH POPE JOHN PAUL II IN THE VATICAN

Mr. MATTINGLY. Mr. President, last week a group of colleagues and I had the honor of an audience with Pope John Paul II in the Vatican. This was the second time I had the privilege of meeting this courageous man. I know the rest of the Senate delegation including Senators PERCY, LUGAR, HATCH, DECONCINI, HAWKINS, and SPECTER were as impressed as I with this great world leader.

I would like to have printed in the CONGRESSIONAL RECORD Pope John Paul II's message to the Senate delegation.

There being no objection, the message was ordered to be printed in the RECORD, as follows:

DEAR FRIENDS: I extend a very cordial welcome to you as we meet today in the Vatican. I have vivid recollections of my own welcome to the United States of America, especially the warm reception given to me in your nation's capital.

I am pleased that you should wish to meet me during your official visit to Europe. This clearly manifests your sentiments of respect, which I assure you are mutual, as well as your desire to engage in constructive dia-

logue regarding matters of interest and concern to you and to the Holy See.

You are men and women who exercise leadership in the United States and who influence the social, political and economic policies of America. And so, as you perform this important role, I would invite you to keep before your eyes a global vision of the events and happenings of our times. I would encourage you to reflect constantly on the moral implications and consequences of your actions and on your influence on the world community. Maintain a keen awareness of the dignity of the human person and be courageous in upholding the inalienable rights which flow from that dignity: the inalienable rights of every human person—every man, woman and child. In this way, you will be serving not only your fellow citizens, but you will be protecting and strengthening the bonds that unite the entire human family.

May you be strong in your resolve to pursue the path of truth and righteousness, no matter what the cost. And be assured that I accompany you in this endeavor with my blessing and my prayers for you and for all your fellow Americans.

MESSAGE FROM THE HOUSE

At 12:42 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 258. Joint resolution designating August 3, 1983, as "National Paralyzed Veterans Recognition Day."

At 1:21 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2915. An act to authorize appropriations for fiscal years 1984 and 1985 for the Department of States, the U.S. Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes.

HOUSE MEASURE REFERRED

The following joint resolution was read the first and second times by unanimous consent, and referred as indicated:

H.J. Res. 258. Joint resolution designating August 3, 1983, as "National Paralyzed Veterans Recognition Day"; to the Committee on the Judiciary.

HOUSE MEASURE PLACED ON CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2915. An act to authorize appropriations for fiscal years 1984 and 1985 for the Department of States, the U.S. Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1230. A communication from the Deputy Administrator of the General Services Administration transmitting, pursuant to law, a prospectus proposing construction of a Federal office building in Knoxville, Tenn.; to the Committee on Environment and Public Works.

EC-1231. A communication from the acting chairman of the Nuclear Regulatory Commission transmitting, pursuant to law, a report on abnormal occurrences at licensed nuclear facilities for the fourth quarter of 1982; to the Committee on Environment and Public Works.

EC-1232. A communication from the acting chairman of the Nuclear Regulatory Commission transmitting, pursuant to law, a report on abnormal occurrences at licensed nuclear facilities for the fourth quarter of 1982; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. 969. A bill to amend section 1 of the act of June 5, 1920, as amended, to authorize the Secretary of Commerce to settle claims for damages of less than $2,500 arising by reason of acts for which the National Oceanic and Atmospheric Administration is responsible (Rept. No. 98-150).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation:

Mr. PACKWOOD. Mr. President, as in executive session, I report favorably from the Committee on Commerce, Science, and Transportation, a nomination list in the Coast Guard which appeared in the CONGRESSIONAL RECORD of May 7, 1983, and, to save the expense of reprinting them on the Executive Calendar, I ask unanimous consent that they may lie on the Secretary's desk for the information of Senators.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LEVIN:

S. 1446. A bill to provide that loan guarantees in an economic development program shall be limited only by the availability of qualified applicants and limitations in appropriation Acts; to the Committee on Environment and Public Works.

By Mr. HELMS:

S. 1447. A bill to exclude from gross income certain distributions from a qualified terminated plan; to the Committee on Finance.

By Mr. BYRD (for himself, Mr. BAKER, Mr. THURMOND, Mr. CRANSTON, Mr. RANDOLPH, Mr. ABDNOR, Mr. BAUCUS, Mr. BENTSEN, Mr. BINGAMAN, Mr. BOREN, Mr. BUMPERS, Mr. DECONCINI, Mr. DOMENICI, Mr. DURENBERGER, Mr. EAST, Mr. GOLDWATER, Mr. HEFLIN, Mr. HUDDLESTON, Mr. JACKSON, Mr. LAUTENBERG, Mr. LAXALT, Mr. LEAHY, Mr. MATHIAS, Mr. MELCHER, Mr. NUNN, Mr. PROXMIRE, Mr. SASSER and Mr. WILSON):

S. 1448. A bill to designate the square dance as the national folk dance of the United States; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HELMS:

S. 1447. A bill to exclude from gross income certain contributions from a qualified terminated plan; to the Committee on Finance.

EXCLUSION FROM INCOME OF CERTAIN PLAN CONTRIBUTIONS

● Mr. HELMS. Mr. President, today I am introducing legislation that relates to the treatment of certain distributions from a qualified terminated pension plan, and is designed to remedy a problem encountered by a North Carolina citizen and taxpayer, Mr. John Pope.

Mr. Pope had a qualified pension plan with his company, Variety Wholesalers, Inc. The plan was terminated in 1976, and there was a lump sum distribution of all the plan's assets in December of that year except for an insurance policy on Mr. Pope's life. Mr. Pope wished to purchase the life insurance policy but could not because at the time Pension Benefit Guaranty Corp. regulations prohibited the sale of a life insurance policy by a pension plan.

In early 1977 Mr. Pope established a rollover IRA account with the proceeds from his payout. Also in early 1977, the PBGC changed its regulations governing the sale of a life insurance policy by a pension plan to allow such a sale. Mr. Pope was able to purchase his policy, and he promptly deposited these funds in a rollover IRA account. A complete rollover of all funds received by Mr. Pope from the terminated pension plan was thus accomplished within 60 days of the plan's termination.

The IRS audited Mr. Pope's 1976 and 1977 tax returns and disallowed the entire rollover because of a technicality that requires all payouts to be made within 1 calendar year. The IRS assessed an income tax deficiency, plus interest and a substantial penalty.

Mr. President, Mr. Pope has been unjustly penalized by the IRS because the PBGC changed the rules regarding the sale of a life insurance policy by a pension plan. When Mr. Pope's pension plan was terminated, PBGC regulations barred the sale of his life insurance policy. But within weeks the PBGC changed its regulations to allow such a sale.

Congress never intended to penalize taxpayers who comply with requirements of the Employee Retirement Income Security Act, but who nevertheless face adverse treatment by the IRS because the payout of the proceeds of a terminated pension plan straddles 2 calendar years.

Mr. President, my bill would allow Mr. Pope's distribution to be treated as a qualifying tax-free rollover. To my knowledge, Mr. Pope's situation is unique, and my amendment would apply to no other taxpayer. Its effect on the Treasury would be minimal.

This bill was adopted by the Senate by voice vote on December 15, 1982, as an amendment to the Surface Transportation Assistance Act of 1982. Unfortunately, it did not survive the conference on that bill. But this proposition has merit. As a matter of fairness Congress should adopt it.

I ask unanimous consent that the text of the bill be printed at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. TREATMENT OF CERTAIN DISTRIBUTIONS FROM A QUALIFIED TERMINATED PLAN.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1954 if—

(1) a distribution was made from a qualified terminated plan to an employee on December 16, 1976, and on January 6, 1977, such employee transferred all of the property received in such distribution to an individual retirement account (within the meaning of section 408(a) of such code) established for the benefit of such employee, and

(2) the remaining balance to the credit of such employee in such qualified terminated plan was distributed to such employee on January 21, 1977, and all the property to such employee on January 21, 1977, and all the property received by such employee in such distribution was transferred by such employee to such individual retirement account on January 21, 1977.

then such distributions shall be treated as qualifying rollover distributions (within the meaning of section 402(a) (5)(D) of such code) and shall not be includible in the gross income of such employee for the taxable year in which paid.

(b) QUALIFIED TERMINATED PLAN.—For purposes of this section, the term "qualified terminated plan" means a pension plan—

(1) with respect to which a notice of sufficiency was issued by the Pension Benefit Guaranty Corporation on December 2, 1976, and

(2) which was terminated by corporate action on February 20, 1976.

(c) REFUND OR CREDIT OF OVERPAYMENT BARRED BY STATUTE OF LIMITATIONS.—Notwithstanding section 6511(a) of the Internal Revenue Code of 1954 or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of the tax imposed by such code which arises by reason of this section may be filed by any person at any time within the 1-year period beginning on the date of enactment of this Act. Sections 6511(B) and 6514 of such code shall not apply to any claim for credit or refund filed under this subsection within such 1-year period.●

By Mr. BYRD (for himself, Mr. BAKER, Mr. THURMOND, Mr. CRANSTON, Mr. RANDOLPH, Mr. ABDNOR, Mr. DOMENICI, Mr. DURENBERGER, Mr. EAST, Mr. GOLDWATER, Mr. LAXALT, Mr. MATHIAS, Mr. WILSON, Mr. BAUCUS, Mr. BENTSEN, Mr. BINGAMAN, Mr. BOREN, Mr. BUMPERS, Mr. DECONCINI, Mr. HEFLIN, Mr. HUDDLESTON, Mr. JACKSON, Mr. LAUTENBERG, Mr. LEAHY, Mr. MELCHER, Mr. NUNN, Mr. PROXMIRE, Mr. RANDOLPH, and Mr. SASSER):

S. 1448. A bill to designate the square dance as the national folk dance of the United States; to the Committee on the Judiciary.

(The remarks of Mr. BYRD and the text of the bill appear earlier in today's RECORD.)

ADDITIONAL COSPONSORS

S. 216

At the request of Mr. BYRD, the name of the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 216, a bill to amend title 18, United States Code, to combat, deter, and punish individuals who adulterate or otherwise tamper with food, drug, cosmetic, and other products with intent to cause personal injury, death, or other harm.

S. 508

At the request of Mr. LAXALT, the name of the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of S. 508, a bill to exempt entities receiving financial assistance from the Rural Electrification Administration from fees under the Federal Land Policy and Management Act of 1976.

S. 801

At the request of Mr. THURMOND, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 801, a bill to amend title 10, United State Code, to establish a program to provide high school graduates with technical training in skills needed by the Armed Forces in return for a commitment for enlisted service in the Amred Forces.

S. 829

At the request of Mr. THURMOND, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 829, a bill entitled the "Comprehensive Crime Control Act of 1983."

S. 858

At the request of Mr. THURMOND, the name of the Senator from California (Mr. WILSON) was added as a cosponsor of S. 858, a bill to recognize the organization known as the National Association of State Directors of Veterans Affairs, Inc.

At the request of Mr. THURMOND, the name of the Senator from Virginia (Mr. TRIBLE) was withdrawn as a cosponsor of S. 858, supra.

S. 863

At the request of Mr. BOSCHWITZ, the name of the Senator from Wyoming (Mr. WALLOP) was added as a cosponsor of S. 863, a bill entitled "The Enterprise Zone Employment and Development Act of 1983."

S. 995

At the request of Mr. EXON, the name of the Senator from New Hampshire (Mr. HUMPHREY) was added as a cosponsor of S. 995, a bill to amend title 38, United States Code, to modify the rule for the commencement of the period of payment of certain adjustments in compensation in the case of hospitalized veterans.

S. 1004

At the request of Mr. D'AMATO, the names of the Senator from North Dakota (Mr. ANDREWS) and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of S. 1004, a bill to amend the Federal employees health benefits plan provisions of chapter 89, title 5, United States Code to assure adequate mental health benefit levels and otherwise limit benefit reductions.

S. 1144

At the request of Mr. HEINZ, the names of the Senator from Iowa (Mr. GRASSLEY), the Senator from Arizona (Mr. DECONCINI), the Senator from New Jersey (Mr. LAUTENBERG), and the Senator from Florida (Mr. CHILES) were added as cosponsors of S. 1144, a bill to suspend periodic reviews of disability beneficiaries having mental impairments pending regulatory reform of the disability determination process.

S. 1276

At the request of Mr. MITCHELL, the names of the Senator from Illinois (Mr. PERCY) and the Senator from New York (Mr. MOYNIHAN) were added as cosponsors of S. 1276, a bill to provide that the pensions received by retired judges who are assigned to active duty shall not be treated as wages for purposes of the Social Security Act.

SENATE JOINT RESOLUTION 107

At the request of Mr. COCHRAN, the names of the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Arkansas (Mr. BUMPERS), the Senator from North Dakota (Mr. BURDICK), the Senator from Utah (Mr. GARN), the

Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Georgia (Mr. NUNN), the Senator from Indiana (Mr. QUAYLE), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Mississippi (Mr. STENNIS) were added as cosponsors of Senate Joint Resolution 107, a joint resolution to designate the year of 1983 as the "Wagner-Peyser Fiftieth Anniversary Year."

SENATE JOINT RESOLUTION 109

At the request of Mr. D'AMATO, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of Senate Joint Resolution 109, a joint resolution designating the week beginning June 19 1983, as "National Children's Liver Disease Awareness Week."

SENATE RESOLUTION 137

At the request of Mr. KASTEN, the names of the Senator from Wyoming (Mr. SIMPSON) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of Senate Resolution 137, a resolution expressing the sense of the Senate that Taiwan should retain full membership in the Asian Development Bank, and that it should not be expelled as a precondition for membership in that body by the People's Republic of China.

AMENDMENTS SUBMITTED

SUPPLEMENTAL APPROPRIATIONS, 1983

TOWER (AND OTHERS) AMENDMENT NO. 1359

Mr. TOWER (for himself, Mr. PERCY, Mr. THURMOND, Mr. COHEN, Mr. QUAYLE, Mr. WARNER, Mr. LUGAR, Mr. HUMPHREY, Mr. MATHIAS, Mr. JACKSON, Mr. NUNN, Mr. EXON, Mr. LEAHY, Mr. HATCH, Mr. JEPSEN, Mr. LEVIN, and Mr. BINGAMAN) proposed an amendment to the bill (H.R. 3069) making supplemental appropriations for the fiscal year ending September 30, 1984, and for other purposes; as follows:

On page 12, line 21, strike out "$1,190,000" and insert in lieu thereof "$6,190,000".

On page 17, between lines 14 and 15, insert the following:

Section 773 of the Department of Defense Appropriation Act, 1983, as contained in Public Law 97-377 (96 Stat. 1862), is repealed.

METZENBAUM AMENDMENT NO. 1360

Mr. METZENBAUM proposed an amendment to the bill H.R. 3069, supra; as follows:

At the appropriate place in the bill insert the following new section:

SEC. . (a) An agency of the Government may not use any funds available to such agency to indemnify any person (including costs of legal fees), pursuant to any contract with the United States, for amounts paid by such person to the United States by reason of any action of the Internal Revenue Service by reason of any action of the Internal Revenue Service unless authorized by a statute enacted before, on, or after the date of enactment of this Act.

(b) Notwithstanding any other provision of law, any amounts paid by an agency of the Government on or after the effective date of this Act to indemnify any person, pursuant to a contract with the United States, for amounts paid by such person to the United States by reason of any action of the Internal Revenue Service shall be a debt owed by such person to the United States to the extent that the funds available to such agency from which such amounts were paid were not authorized by a statute enacted before, on, or after the date of enactment of this Act to be used for such purpose. Each such debt shall be subject to all Federal laws having general applicability to debts owed to the United States and shall be collected in the same manner as is provided by such laws.

(c) It is the sense of the Congress that in the case of any contract by which the Department of the Navy has leased cargo space in a maritime vessel from a contractor, the Department of the Navy should (1) exercise any option to purchase such maritime vessel provided by the lease contract or (2) renegotiate the terms of the contract to procure such cargo space by the most cost effective means authorized by law.

COCHRAN AMENDMENT NO. 1361

Mr. COCHRAN proposed an amendment to the bill H.R. 3069; supra; as follows:

On page 56, line 23, strike out "$64,000,000" and insert in lieu thereof "$68,300,000".

On page 57, line 16, after the semicolon insert the following: "$4,300,000 is for Gulf Islands National Seashore, Mississippi;".

METZENBAUM AMENDMENT NO. 1362

Mr. METZENBAUM proposed an amendment to the bill H.R. 3069, supra; as follows:

At the appropriate place in the bill insert the following new section:

SEC. . Notwithstanding any other provision of this Act, funds appropriated by this Act may not be used to indemnify any person (including costs of legal fees), pursuant to any contract with the United States, for amounts paid by such person to the United States by reason of any action of the Internal Revenue Service.

RUDMAN (AND EAGLETON) AMENDMENT NO. 1363

Mr. RUDMAN (for himself and Mr. EAGLETON) proposed an amendment to the bill H.R. 3069, supra, as follows:

On page 72, after line 9, insert the following:

FACILITIES DEVELOPMENT

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For an additional amount for "Health resources and services" for the remodeling and expansion of an existing academic health center library in the Pacific Northwest under section 720(a)(1) of the Public Health Service Act, $14,500,000, to remain available until expended; and notwithstanding any other provision of this or any other Act, such amount shall be made available without regard to the provisions of sections 702(b) and 722(a)(1) of the Public Health Service Act.

NATIONAL INSTITUTES OF HEALTH

NATIONAL LIBRARY OF MEDICINE

For an additional amount to carry out section 301 and parts I and J of title III of the Public Health Service Act with respect to conducting research, development, and demonstration projects at an existing academic health center in the Pacific Northwest, $5,900,000 to remain available until expended.

GRANTS FOR CONSTRUCTION OF ACADEMIC FACILITIES

For part B of title VII of the Higher Education Act of 1965, $22,500,000, to remain available until expended, shall be available for two grants in New England except that the provisions of section 721(a)(2) and (b) shall not apply to the funds appropriated under this heading, and the amount of the grants paid from funds appropriated under this heading shall not be subject to any matching requirement contained in section 721(c) of such part and shall be used for two facilities of the type mentioned in section 713(g).

KASSEBAUM (AND OTHERS) AMENDMENT NO. 1364

Mrs. KASSEBAUM (for herself, Mr. DANFORTH, Mr. EAGLETON, Mr. DIXON, and Mr. BOREN), proposed an amendment to the bill H.R. 3069, supra; as follows:

At the appropriate place in the bill, page 87, after line 6; add the following new material: "Rock Island Labor Assistance, For employee protection as authorized by the Rock Island Railroad Transition and Employee Assistance Act, as amended, (45 USC 1001, et seq.), $35 million to remain available until expended."

BAUCUS AMENDMENT NO. 1365

Mr. BAUCUS proposed an amendment to the bill H.R. 3069, supra; as follows:

On page 3, between lines 10 and 11, insert the following new paragraph:

"For making and insuring loans pursuant to section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) to businesses and cooperatives which are (1) engaged in the business of furnishing to farmers and ranchers machinery, supplies, and services directly related to the production of commodities diverted from production under payment-in-kind land diversion programs carried out by the Secretary of Agriculture, and (2) experiencing substantial economic hardship directly attributable to the operation of such programs, $100,000,000 to remain available until September 30, 1984.".

MATTINGLY (AND OTHERS) AMENDMENT NO. 1366

Mr. MATTINGLY (for himself, Mr. TOWER, Mr. JACKSON, Mr. NUNN, Mr. THURMOND, and Mr. HOLLINGS) pro-

posed an amendment to the bill H.R. 3069, supra; as follows:

On page 37, strike lines 1 through 23 and insert in lieu thereof the following:

"None of the funds appropriated by this Act, or by any other Act, or by any other provision of law, shall be available for the purpose of restarting the L-Reactor at the Savannah River Plant, Aiken, South Carolina, until the Department of Energy completes an Environmental Impact Statement pursuant to section 102(2)c of the National Environmental Policy Act of 1969. For purposes of this paragraph the term "restarting" shall mean any activity related to the operation of the L-Reactor that would load fuel into the reactor core, achieve criticality, generate fission products within the reactor, or discharge cooling water from either testing or operations into Steel Creek.

"Consistent with the National Environmental Policy Act of 1969, and in consultation with State officials in South Carolina and Georgia, the preparation and completion of the Environmental Impact Statement called for in this paragraph shall be expedited. The Secretary of Energy may reduce the public comment period, except that the public comment period shall not be reduced to less than forty-five days and the Secretary shall provide his Record of Decision, based upon the completed Environmental Impact Statement, not sooner than December 1, 1983, and not later than January 1, 1984.".

WEICKER AMENDMENT NO. 1367

Mr. WEICKER proposed an amendment to the bill H.R. 3069, supra; as follows:

Strike the language on page 71, line 23 to page 72, line 10 and insert the following: "Higher and continuing education for an additional amount for 'Higher and continuing education', $4,817,000".

BOREN (AND OTHERS) AMENDMENT NO. 1368

Mr. BOREN (for himself, Mr. HUDDLESTON, Mr. ANDREWS, Mr. ZORINSKY, Mr. DIXON, Mr. BAUCUS, Mr. PRYOR, Mr. KASTEN, Mr. LONG, Mr. EXON, Mr. BENTSEN, Mr. LEVIN, Mr. JOHNSTON, Mr. BUMPERS, Mr. HART, and Mr. STENNIS) proposed an amendment to the bill H.R. 3069, supra; as follows:

On page 125, after line 7, insert a new section as follows:

SEC. 405. Effective only for the 1984 crops of wheat, feed grains, upland cotton, and rice, the Agricultural Act of 1949 is amended by inserting after section 107C (7 U.S.C. 1445b-2) the following new section:

"EARLY ANNOUNCEMENT OF PROGRAMS

"SEC. 107C. Notwithstanding any other provisions of this Act, the Secretary shall announce the terms and conditions for each of the annual programs for the 1984 crops of wheat, feed grains, upland cotton, and rice (including the applicable loan rate and established price, and the details of the acreage reduction program, if any) according to the following schedule:

"(1) For wheat, by July 1, 1983;

"(2) For feed grains, by September 15, 1983;

"(3) For upland cotton, by November 1, 1983; and

"(4) For rice, by December 15, 1983."

CABLE TELECOMMUNICATIONS ACT

LAUTENBERG (AND OTHERS) AMENDMENTS NOS. 1369 THROUGH 1371

Mr. LAUTENBERG (for himself, Mr. EXON, Mr. DURENBERGER, Mr. BOSCHWITZ, and Mr. DECONCINI) submitted three amendments intended to be proposed by them to the bill (S. 66) to amend the Communications Act of 1934; as follows:

On page 39, line 3, strike out "a de novo" and insert in lieu thereof "judicial".

On page 39, line 5, immediately after the period insert "Such judicial review shall be de novo, unless the renewal applicant has been afforded a hearing on record before an independent hearing examiner or administrative law judge consistent with State law that requires—

"(1) adequate notice;

"(2) fair opportunity for participation by the renewal applicant, which includes—

"(A) discovery;

"(B) the filing of pleadings, motions, or objections;

"(C) the introduction of written or oral testimony; and

"(D) cross-examination of opposing parties; and

"(3) a written decision by the examiner or judge based exclusively on the full record of the hearings and stating the specific findings of fact and conclusions of law on which the decision is based.".

On page 31, line 15, insert "be required, as part of the franchise request for proposals, to dedicate or set aside channels for public, educational or governmental users, and the cable system operator may" immediately after "may".

On page 31, line 16, strike out all beginning with "public" through "or" on line 17.

On page 42, line 20, insert "public, educational or" immediately after "for".

On page 43, line 4, insert "other" immediately after "for".

On page 34, insert between lines 9 and 10 the following new paragraph:

"(3) The provisions of paragraph (1) of this subsection shall not be applicable where the cable system is subscribed to by at least 80 percent of the residences to which cable service is available, unless the cable operator demonstrates that 90 percent of the time, adequate on-site reception of the four television signals is available to more than 50 percent of the households to which cable service is available. Such a determination shall be made by the Commission. Failure by the Commission to make a determination within 180 days after the filing of an application by the cable operator shall be deemed to be a determination that such satisfactory reception is available.".

● Mr. LAUTENBERG. Mr. President, I submit for printing in the RECORD a number of amendments to Senate bill S. 66, the Cable Telecommunications Act of 1983.

The bill is intended by its sponsors to establish a national policy governing cable telecommunications. It would vest in the Federal Government primary jurisdiction over cable telecommunications, while restricting the power of State and local governments that previously have been actively involved in the franchising and regulation of cable systems. As some of my colleagues may be aware, I have expressed substantial reservations with regard to various aspects of this bill. I voted against reporting the bill from the Commerce, Science and Transportation Committee for that reason. Several days ago, I, along with my good friends, the Senator from Nebraska, with whom I serve on the Commerce Committee, and the Senators from Minnesota, circulated a letter to our colleagues expressing our intention to offer amendments addressing some of our principal concerns.

In the meantime, however, we have attempted to secure a reasonable accommodation of our concerns with the sponsors of the bill. I am pleased to report that the amendments that I, and my good friends from Nebraska, and Minnesota, along with the Senator from Arizona (Mr. DECONCINI), submit today are, acceptable to the chairman of the Commerce Committee, the Senator from Oregon, and, I understand the chairman of the Subcommittee on Communications, the Senator from Arizona, I want to say for the record how much I appreciate their willingness to compromise. I know they have worked long and hard on this bill.

While the amendments we offer today do not, of course, address all of the shortcomings in the bill as I see them, they do make what I believe are significant and salutary changes in the legislation. Given the alternative between simply opposing the bill, and securing what I believe are improvements, the choice for me was clear. Consequently, with the adoption of these amendments and certain other amendments to be offered by the committee, I am generally prepared to support this legislation.

Mr. President, the amendments we offer today would affect four general areas of the bill: The deregulation of rates for basic cable service; the provision of access; the procedure governing the renewal of cable franchises; and the abrogation of contractual duties.

RATE DEREGULATION

Mr. President, in many areas of the country, cable is the only available means of securing clear television reception. The bill as reported out of the committee would deregulate rates in many of these far flung areas, subjecting consumers to the monopoly power of cable operators.

Specifically, the bill provides that rates shall be deregulated in any area falling within the so-called B contour of four television signals, three of

which must be network signals. The B contour is defined as an area where more than 50 percent of the households receive adequate reception 90 percent of the time.

In some municipalities within the B contour, however, reception is much worse. These places could be in a valley, or faced with other barriers to reception. These are areas where cable serves the function of a utility providing essential reception services, where there are not available reasonably competitive alternatives to cable for the reception of television signals. These are areas where an overwhelming majority, and an unusual majority of the households subscribe. In these areas, I believe, rate regulation is entirely appropriate.

Consequently, the amendment would provide that where a system serves more than 80 percent of the households to which cable is available, then there should be a presumption that adequate reception is not available, and rate regulation shall continue. There is, moreover, a waiver provision, to permit a cable operator to show that he has secured subscriptions from more than 80 percent of the homes notwithstanding that adequate on site reception is available to a majority of the households.

Also, the bill provides that even where rates may continue to be regulated, cable operators are guaranteed annual rate increases equal to 5 percent or the increase in the Consumer Price Index, whichever was greater. We found no basis for providing an alternative measure to the CPI, assuming there are to be automatic rate increases. Consequently, the amendment we submit today would provide that the automatic rate increases would be no more than the rise in the CPI. Given the current level of inflation, I understand that this would result in lower automatic increases.

FRANCHISE RENEWAL

The bill provides guidelines governing a franchising authority's consideration of a cable operator's request for a renewal of his franchise. The bill provides, however, that notwithstanding these guidelines, if the franchising authority's decision is adverse to the cable operator, then the cable operator may secure de novo judicial review of the decision. In other words, the cable operator may secure a complete retrial of the issue in the courts. So, the franchising authority's decision would—regardless of its fairness and openness—be denied the respect that courts generally accord administrative decision.

I objected to his provision. Certainly, if the franchising authority has afforded the cable operator a full and fair hearing, and has rendered its decision on the merits, there should be no second bite at the apple in the courts. That would simply impose added costs on the franchising authority, added burdens on the courts, and generally discourage franchising authorities from acting in what they believe is the public interest.

Consequently, we are submitting an amendment to provide that where the franchising authority acts in accord with a State law setting out a fair procedure, then judicial review need not be de novo. By fair procedure, we mean one that includes adequate notice, a fair opportunity to be heard, and a review by an impartial trier of the facts.

I note that this amendment would clearly cover the procedure that is in effect in my State, where the franchising authority, the State Board of Public Utilities, refers cases for initial determination to administrative law judges, acting in accord with the State's Administrative Procedure Act and the rules of the Office of Administrative Law. Certainly, in my State, it would serve no public policy purpose to provide for de novo judicial review of the franchising authority's actions. This amendment would avoid that necessity.

I note also that the bill would require a franchising authority to consider within 90 days an application for franchise renewal by a cable operator. Some cities and franchising authorities believed that 90 days was too short a period. Consequently, we submit an amendment to extend that period to 120 days.

ABROGATION OF CONTRACTUAL DUTIES

The bill would grant to cable operators the power to abrogate contractual duties to provide certain cable facilities or equipment if there has been a significant change in circumstances. I concede that there should be some flexibility to revise terms of a cable operator's franchise or contract if those obligations become unduly burdensome. However, there should be a strong presumption in favor of mutually agreed upon terms. The cable operator should not be free to unilaterally withdraw facilities or equipment that were the subject of a freely entered contract. Consequently, the senior Senator from Minnesota is submitting an amendment, in which I join, that would require negotiation before any promised facilities or equipment are withdrawn because of significant change in the circumstances. Moreover, if negotiation fails, the amendment provides for arbitration, to avoid the resolution of these disputes in the courts.

ACCESS

I believe that the public has a substantial interest in increasing the diversity of information and views available to them. Indeed, our interest in diversity can be traced back to the first amendment of our Constitution, which protects the free marketplace of ideas. The bill provides that franchising authorities may require that cable operators provide channel capacity for access by governmental users. However, the bill does not allow for similar requirements for public and educational users—like the local college, community groups, and the like. We believe the bill was unduly restrictive in this regard. Consequently, the amendment we are submitting would expand the power of the franchising authority to secure access for a broader range of users, and expand the diversity of views and information available to the public.

CONCLUSION

We believe that these amendments address clear shortcomings in the bill and their adoption would improve the S. 66 and the national policy on cable telecommunications that it would erect. I urge my colleagues to support these amendments. And I again, I thank the principal sponsors of the bill for their graciousness in accepting them.

Mr. President, I also submit for the RECORD, and the information of my colleagues, a letter from Mr. John Gunther of the U.S. Conference of Mayors, in which he expresses support for these amendments, and I ask unanimous consent that the letter be printed.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. CONFERENCE OF MAYORS,
Washington, D.C., June 10, 1983.

Hon. FRANK LAUTENBERG,
U.S. Senate, Hart Senate Office Building, Washington, D.C.

DEAR SENATOR LAUTENBERG: On behalf of all of the nation's Mayors, I wish to express our strong support for the amendments you will be offering to S. 66, the Cable Telecommunications Act of 1983.

The leadership you have shown in this difficult area all year has been extremely appreciated by Mayors across the country, as have been the fine efforts of Senators Exon, Boschwitz and Durenberger who are joining in the amendments with you.

The U.S. Conference of Mayors believes the proposed amendments will be a definite improvement to S. 66. Conference policy opposes federal legislation in the cable area and we are grateful for amendments which will make S. 66 less onerous.

Thank you for your assistance. The U.S. Conference of Mayors looks forward to continuing to work with you on this and other important urban matters.

Sincerely,

JOHN J. GUNTHER,
Executive Director.●

EXON (AND OTHERS) AMENDMENT NOS. 1372

Mr. EXON (for himself, Mr. LAUTENBERG, Mr. BOSCHWITZ, Mr. DURENBERGER, and Mr. DECONCINI) submitted two amendments intended to be proposed by them to the bill S. 66, supra; as follows:

AMDT. 1372

On page 32, line 16, strike out "5 percent of the existing rate or".

On page 32, line 18, strike out "whichever is greater,".

AMDT. 1373

On page 37, line 20, strike out "90" and insert in lieu thereof "120".

DURENBERGER (AND OTHERS) AMENDMENT NO. 1374

Mr. DURENBERGER (for himself, Mr. LAUTENBERG, Mr. BOSCHWITZ, Mr. EXON, and Mr. DECONCINI) submitted an amendment intended to be proposed by them to the bill S. 66, supra; as follows:

On page 43, strike line 6 through line 14 and insert in lieu thereof the following:

"(d)(1) The cable operator may replace or remove a particular service specified in the cable franchise as part of the basic service or any other tier of cable service of telecommunications service in any case in which there has been a significant change in circumstances since the cable operator's offer to provide such service. The cable operator may be required to retain a specified service in any particular category of service other than basic service.

"(2) In any case in which a cable operator submits a showing that, as a result of a significant change in circumstances, particular facilities and equipment required by the franchise are economically, technically, or otherwise impracticable, the franchising authority shall enter into negotiations with the cable operator for the termination, modification, or deferral of such requirement. If such terms and conditions cannot be agreed upon within 45 days, the matter shall be submitted to binding arbitration. For the purposes of arbitration, each of the affected parties shall select one arbitrator and the two arbitrators so selected shall choose a third arbitrator. The existing franchise provisions, except for those which are the subject of arbitration, shall not be affected by the arbiter's final decision.".

BOREN (AND OTHERS) AMENDMENT NO. 1375

Mr. BOREN (for himself, Mr. HUDDLESTON, Mr. ANDREWS, Mr. ZORINSKY, Mr. DIXON, Mr. BAUCUS, Mr. PRYOR, Mr. KASTEN, Mr. LONG, Mr. EXON, Mr. BENTSEN, Mr. LEVIN, Mr. JOHNSTON, Mr. BUMPERS, Mr. COCHRAN, Mr. DOLE, Mr. HELMS, Mr. BOSCHWITZ, and Mr. HART) proposed an amendment to the bill H.R. 3069, supra (which was subsequently modified); as follows:

On page 125, after line 7, insert a new section as follows:

SEC. 405. It is the sense of Congress that the Secretary of Agriculture should announce the 1984 annual commodity programs for wheat, feed grains, upland cotton, and rice by the dates specified in the following schedule:

(1) For wheat, July 1, 1983;

(2) For feed grains, August 15, 1983;

(3) For upland cotton, November 1, 1983; and

(4) For rice, November 30, 1983.

BOSCHWITZ AMENDMENT NO. 1376

Mr. BOSCHWITZ (for himself and Mr. HUDDLESTON) proposed an amendment to the bill H.R. 3069, supra; as follows:

On page 4, between lines 18 and 19, insert the following new section:

GENERAL PROVISIONS

SEC. . (a) The Congress finds that—

(1) Federal nutrition programs, including the food stamp program, school lunch program, school breakfast program, child care food program, summer food program, special supplemental food program for women, infants, and children (WIC), the commodity supplemental food program, special milk program, and elderly feeding programs, have been effective in reducing hunger and malnutrition in the United States;

(2) the Congress has closely scrutinized and made significant changes in both child nutrition and food stamps over the past two years in an effort to achieve budgetary savings;

(3) current levels of unemployment have greatly increased dependency on Federal, State, and local food programs;

(4) churches and other volunteer organizations in the United States are having difficulty meeting the growing need for food created by poor economic conditions;

(5) the food stamp program provides nutrition benefits to those without the means to obtain a nutritionally adequate diet and is often the only form of Federal assistance available to many unemployed workers;

(6) nutrition benefits to mothers and children at critical periods of growth represent a cost-effective way to reduce infant mortality, low birthweight, and promote long-term health;

(7) nutrition benefits through the school lunch program and other child nutrition programs significantly contribute to the health maintenance and learning potential of our Nation's children;

(8) nutrition program for elderly people, including the food stamp program, can prolong health, allow for independent living, and preserve the dignity of our Nation's senior citizens;

(9) a Federal role in meeting the nutritional needs of low-income Americans is appropriate since the costs of obtaining an adequate diet do not vary significantly throughout this country; and

(10) a reduction in the Federal Government's commitment to provide adequate nutrition to the needy would cause increasing hardship and hunger to those least able to survive in our society.

(b) It is the sense of the Congress that—

(1) the Federal nutrition programs, including the food stamp, child nutrition, and elderly feeding programs, should be protected from budget cuts that would prevent them from responding effectively to nutritional needs in the United States;

(2) the special supplemental food program for women, infants, and children (WIC) should continue to be funded at the full level authorized by law; and

(3) the Federal Government should maintain primary responsibility for nutrition programs.

WEICKER AMENDMENT NO. 1377

Mr. WEICKER proposed an amendment to the bill H.R. 3069, supra; as follows:

On page 117, after line 7, insert the following:

ACTION

"Operating expenses", $350,000;

ADDITIONAL STATEMENTS

AARP SERVICES AND OTHER AGING POLICIES STATEMENT

● Mr. PRESSLER. Mr. President, adequate income in retirement is the No. 1 problem confronting older Americans.

Consequently, an effective income strategy, which recognizes the importance of controlling inflation for the elderly, is absolutely essential for a national policy on aging.

However, our Nation must also recognize that a well-conceived services strategy for older Americans must complement a comprehensive income policy.

Transportation is one excellent example. If the elderly are mobile, they find it much easier to adapt to the challenges and problems associated with advancing age.

Without adequate transportation, older Americans frequently experience a syndrome of deprivation. In rural areas such as my home State of South Dakota, lack of transportation is often a serious problem which limits access to services for our older population. Routine tasks that most younger people take for granted—such as shopping, visiting relatives, or going to the doctor—become formidable obstacles for the aged who are without wheels.

Many now live under a form of house arrest, cut off from their families, friends, and service providers. Quite frequently, this problem is even more severe in rural areas because public transportation is not available.

Services under the Older Americans Act have also enriched the lives of the elderly. Many elderly are able to live independently now in their homes instead of being placed unnecessarily or prematurely in a nursing home because of the homemaker, home health, or other services under the Older Americans Act.

The American Association of Retired Persons—the largest national organization representing the elderly—also recognizes the indispensability of an effective services strategy. In South Dakota, the AARP has 39,108 members.

The AARP legislative council has developed a comprehensive set of recommendations affecting services and other issues—such as transportation, housing, nutrition, legal services, crime, and abuse of the elderly, and education and training.

These policy proposals merit the close attention of the 98th Congress, particularly because the House and

Senate must act on important services legislation during the next 2 years. One noteworthy example is the reauthorization of the Older Americans Act.

Mr. President, I ask that the AARP services and other aging policies statement be printed in the RECORD.

POLICIES ON OTHER AGING ISSUES

THE NEW FEDERALISM AND THE ELDERLY

A. Block grants

The New federalism—the redirection of power and money to the State and local levels from the federal level—has important implications for the elderly in terms of the way programs will be administered and the types and levels of services that will be available. At this juncture, the new federalism is being implemented in two ways: block grants and regulatory reform.

The consolidation of many like-purpose federal categorical programs into a block grant to the states is based on the premise that there are too many narrow-purpose federal programs which are costly, administratively burdensome, and often inefficient. Block grants remove federal administrative requirements and allow states to target funds as they see fit. Thus power and monies are turned over to the states and federal administration is reduced or eliminated.

The Associations support the consolidation of like-purpose programs which are duplicative or fragmented and also support the elimination of administratively burdensome or overly restrictive regulations. For example, the Associations have long advocated the consolidation (subject to minimal federal guidelines) of all federal energy assistance programs because such consolidation would eliminate costly administrative overhead and target limited resources to those truly in need.

On the other hand, however, the Associations have a number of concerns about the way in which categorical programs are being proposed for consolidation and turned into block grants. First, recent block grant proposals entailed virtually no assurance that monies will be used for their intended categorical purposes; the States were given the widest possible discretion. Second, federal monies are being passed to the states without any provision for monitoring or evaluating the state's use of these monies. Third, although it is probably true that aggregate costs of consolidated programs can be reduced by eliminating federal administrative overhead, the budgeted reductions in funds for these programs (12 to 25 percent) far exceed any savings achieved in administrative costs; these reductions will, therefore, translate into real benefit or service reductions.

Given the probability that more categorical programs (for pieces thereof) will be proposed for consolidation and block grants, the Associations recommend the following: First, no block grant proposal should be considered outside the normal channels of the legislative process with its public hearing requirement and other procedural safeguards. Second, each proposal should contain language designed to assure that block grant monies are spent for the purposes for which they were intended; the goal of providing states with more fund allocation flexibility and the goal of achieving federal expenditure objectives for benefits or services are not mutually exclusive. Third, block grant funds for consolidated programs should not be reduced (beyond what can be justified on the basis of reduced program overlays or duplication or reduced federal program administrative overhead) if such reductions will result in substantial reductions in benefits or services; it simply cannot be assumed that the states will increase their own funding to maintain benefit/service levels. Finally, program consolidation and block grant funding must not become a means for avoiding federal anti-discrimination statutes; such statutes must be complied with even in the context of block grants.

B. Regulatory reform

The second major aspect of the new federalism is regulatory reform. Over the past several years, Congress has come to reflect the increasingly strong "anti-government regulation" sentiment prevailing among the public. As a result, it has become attentive to charges that regulation is driving up the cost of doing business and restricting productivity. These regulation-related costs which are passed on to the consumer in the form of higher prices are looked upon as a significant factor contributing to overall inflation. Regulation, the sentiment continues, is inflationary, and, to the extent it has become excessive, is unnecessary.

Reflecting this public sentiment, the new Administration is totally committed to reducing federal regulatory activity. To this end a Task Force on Regulatory Relief has been created to review regulations alleged by industry to be the most burdensome. Also, a conscious effort has been made to appoint to the federal departments and agencies, persons who believe that, to be approved, the benefits of proposed regulations must demonstrably outweigh their costs. Finally, to assure proper scrutiny, the Office of Management and Budget must review all new federal rules and regulations before they can become effective.

As a consequence of all this, the rate of production of federal regulations has greatly slowed. Agencies are reluctant to move forward on proposed rules, even those which have nearly completed the regulatory process, like the Federal Trade Commission's funeral rule. In addition, agencies and departments have reversed or eliminated many pending or final rules, usually without an opportunity for public comment. This happened in the case of proposed rules on patients' rights linked to the Medicare/Medicaid nursing home reimbursement provisions. Finally, there has been an increasing propensity on the part of federal agencies to accept voluntary compliance by industry as a substitute for regulatory action and mandatory compliance. Such was the case with sodium labeling requirements for processed food products. (See section on Nutrition for further discussion.)

Congress has responded to the popular sentiment against regulation in four ways. First, it has tended to reject legislation which might impose additional regulatory burdens. Such was the case with hospital cost containment legislation in the 96th Congress. Second, Congress has tended to favor legislation to deregulate already heavily regulated industries. Over the last few years, legislation was passed to phase out or reduce government regulation over financial institutions and the trucking, railroad and airline industries. Currently, Congress is grappling with legislation to deregulate the telecommunication, bus and insurance industries. Third, Congress has acted to delegate to the states the responsibility for administering programs. This, for example, explains its recent receptivity to block grant proposals.

Certainly, when deregulation renders a particular industry more price competitive and cost conscious, all consumers including the elderly, benefit. The Associations have generally supported legislation designed to achieve these objectives—such as the legislation to deregulate the financial, trucking and airline industries. However, the Associations also believe that the anti-government regulation sentiment in the Congress has tended to become undiscriminating. If the label "over-regulation" or "consumer protection" is attached to a bill, it is almost automatically prejudiced, without regard to its merits. This inability to distinguish between beneficial and burdensome regulation can be harmful to the elderly. Not all regulation is unnecessary, anti-competitive, and inflationary; not all deregulation is competition promoting and anti-inflationary.

The increasing tendency of federal lawmakers to rely on the states to correct problems which are national in scope has its disturbing aspects. Although some issues are rightfully left to states, Congress should be willing to step in and act effectively when the states fail to act.

A good example of effective federal intervention in an area traditionally left to the states was the legislation enacted in 1980 to correct widespread, well-documented fraud and abuse in the advertising and sale of so-called "Medigap" health insurance—private health insurance which is designed to supplement basic coverage under Medicare. The new federal law creates a voluntary certification program for Medigap policies, offering a federal "seal of approval" for policies which meet minimum standards of adequacy and which are sold in accordance with standard marketing practices. States which wish to avoid federal certification of policies sold within their borders can do so by enacting statutes or implementing regulations that set standards as least as stringent as the minimum set forth in the federal law.

Finally, since the 95th Congress, existing programs and federal agency actions have come to be scrutinized with an eye toward reforming the regulatory process. The Associations generally endorse such Congressional scrutiny. Programs and regulations which have outlived their usefulness, duplicate the functions of others, or have become so administratively burdensome that they are no longer worthwhile should be thoroughly reviewed, revised and, where appropriate, eliminated.

Many regulatory reform proposals made to date, however, would further fragment authority among the Congress, the courts and the agencies, thus complicating an already complex regulatory process. Some of these proposals would require agencies to prepare and publish the costs and benefits of proposed major regulations, justify the need for them, list alternatives and, in most cases, implement the least costly alternative. While this type of reform has superficial appeal, it may provide agencies with a tool to circumvent Congressional intent.

"Sunset" legislation, another popular reform proposal, would require periodic review (by Congress and/or the agencies) of existing regulations. Although the concept itself has merit, the Associations believe that, rather than automatic terminations, positive action (either a congressional vote or a notice of agency intent) should be required in order to terminate programs or regulations.

The Associations are also concerned over the use of the "legislative veto" by one or both houses of Congress to stop the promulgation of agency rules and regulations. This mechanism tends to duplicate powers which Congress already has. To avoid problems arising as a result of agency regulatory or rulemaking activity, legislative language should be as clear, concise and specific as possible so as to leave little room for agency interpretation. Congressional oversight committee functions should be utilized to a greater degree. In addition, agencies should be made more responsive to those affected by proposed rules through expanded and adequately funded public participation programs.

Regulatory and deregulatory action that promotes a workable degree of competition, as well as fair and ethical business practices in a particular marketplace, is generally desirable and ought to be pursued. Given their relatively fixed and limited incomes and the impact of high rate inflation on them, the elderly are hurt the most by anti-competitive, cost and price promoting practices. In addition, the elderly are more vulnerable to and less able to afford the financial hardship resulting from fraud and deception in the marketplace.

THE OLDER CONSUMER: THE FEDERAL ROLE

In light of continuing efforts by the Administration and the Congress to cut back federal regulatory activity and shift to the states administrative responsibility for many of the programs that serve the elderly, the Associations must emphasize the need for continued, adequately funded consumer protection activity at the federal level. It is essential that the elderly be informed about the protections, rights and remedies available to them. It is equally essential that effective consumer education and information and mass media programs be developed or continued that will help protect the elderly against fraud and deceit, especially in the marketing of goods and services of which they are disproportionately large consumers. This means that agencies of the Federal Government, such as the Federal Trade Commission, Food and Drug Administration, Consumer Product Safety Commission, the U.S. Office of Consumer Affairs and consumer affairs offices within departments and agencies, must be allowed to continue their consumer protection and education activities. That means that appropriations for these agencies and offices must be sufficient to sustain these activities. It also means that artificial barriers to such activities must not be created and those that have been, such as the current moratorium on new government publications and the decision to eliminate 900 consumer publications and program guides, must be removed or reversed.

The federal government must also continue and increase outreach efforts so that the consuming public will have reasonable opportunity to participate in government decision-making and rulemaking processes. Agencies will tend to be more responsive to those affected by a proposed action or rule as a result of expanded and adequately funded public participation programs. The sensitivity of government agencies to the special concerns and interests of the elderly would be further enhanced by the appointment of qualified elderly citizens to the various panels and commissions that either regulate programs that are of importance to the elderly or provide guidance or advice to the administrators of such programs.

Another way the federal government can enhance effective decision-making at minimal cost is to carry through on the spirit of Executive Order 12160, which requires all federal executive agencies to create or improve consumer affairs offices. It is through the Order's requirements, which include the establishment of effective procedures for full participation by consumers in agency proceedings, that agencies will be more sensitive to the elderly's needs and concerns, especially when they differ substantially from those of younger consumers.

AGE DISCRIMINATION IN FEDERAL PROGRAMS

The Age Discrimination Act (ADA) prohibits age discrimination in federally supported programs and services. The Act has great potential to eradicate discriminatory practices. However, there are two serious loopholes in the Act. One grants an automatic exemption from the Act to age-restrictive practices authorized by state statute or local ordinance; the ADA is thus the only federal law permitting non-federal legislative bodies to override a prohibition against the discriminatory use of federal monies. The second permits federally supported programs to use age criteria that are shown to fulfill a business or program objective. Both loopholes ought to be eliminated so that the exclusionary use of age criteria is limited to programs where Congress has by statute authorized that use.

CRIME AND ABUSE OF THE ELDERLY

The elderly tend to have a greater fear of crime and are more vulnerable to certain types of crime than other population groups. Lack of mobility and living alone and/or in older, less secure housing exacerbates their fear and vulnerability. Steps must be taken to reduce the criminal victimization of the elderly.

The federal government should encourage state and local agencies to compile detailed and uniform crime statistics, including such information as victim age, so that those crimes to which the elderly fall disproportionate victims will be clearly and accurately identified.

Federal funds should be targeted to a greater degree on prevention of stranger-to-stranger violence and crimes against property. Increased government sponsorship and funding of crime prevention programs are needed to increase citizen interest and participation in community efforts to reduce crime. Additional public information and media programs are also needed to education persons, especially older persons, about simple crime prevention techniques. To reduce economic crime like criminal fraud and deceptive practices, education programs should be continued to demonstrate how the elderly are victimized and suggest means for self protection.

The federal government should take steps to control the availability of handguns because of their frequent use in the commission of violent crimes. Federal financial assistance should be provided to the states to provide adequate indemnification to victims of crime. Prosecution programs aimed at career criminals or repeat offenders should be established.

A new federal criminal code should be enacted to eliminate inconsistencies in present law and strengthen the criminal justice system. Consideration should be given to imposing prison sentences, with no suspension or probation for conviction of certain violent crimes. Additional reforms should include modifying evidentiary exclusionary rules, barring motions (including motions for continuances and appeals) that are frivolous, spurious or merely delaying and imposing limitations on plea bargaining in sentencing.

Another area of concern which must be addressed is the physical, psychological and material abuse of the elderly in their homes and in institutions. Because the potential for such abuse grows as the elderly population increases, the federal government should encourage research into the frequency and causes of the problem and development of education and training programs for care and service providers to foster preventive measures where possible. In addition, providers should be given incentives for reporting cases of elder abuse. If the nature and magnitude of the problem warrant, the federal government should encourage state and local governments to enact and enforce adult protection laws.

Although much has been done to correct institutional abuse, many states still do not effectively enforce compliance with criminal physical and chemical restraint statutes. If the states fail to take appropriate action to end abuse of the elderly in institutions, then the federal government should act through nursing home regulations for conditions of medicare-medicaid participation and through civil and community regulation by the Department of Justice.

EDUCATION AND TRAINING

Educational opportunities for the elderly have traditionally been directed primarily at enrichment activities, unrelated to economic or social needs. The Associations, however, regard education as a tool to help older persons solve fundamental problems, as well as assume or remain in productive roles.

Several actions should be taken to promote lifelong learning. First, assuming retention of the Department of Education, a position within the Office of the Secretary should be assigned responsibility for coordinating policy for older adult learner programs since education for older adults cuts across several areas (e.g., vocational education, research, adult education, and postsecondary education). Second, adequate funding should be provided to implement the new aspect of Title I of the Higher Education Act that is aimed at improving access for the older learner in a variety of settings. Third, the focus of lifelong learning should increasingly be directed at work-related areas as for example, by placing greater emphasis within the Vocational Education Act on community and technical colleges which offer potential job training opportunities for older persons and by funding that section of the Career Education Act that provides career education opportunities for adults (including older adults).

Fourth, improved financial assistance should be made available to the elderly to help assure that they have access to educational opportunities. Fifth, the Associations support adequate funding for the Adult Education Act which offers adults, including the elderly, who cannot read or write an opportunity to learn basic literacy and coping skills. Finally, under the Older Americans Act, the Associations urge full implementation of the provisions of the 1981 OAA Amendments that clarify and give greater attention to the education and training needs of the elderly; in addition, funding under the Act should be allocated for self-help education activities (to help older persons care for themselves and

remain productive) and for demonstration job training projects.

Once training programs which prepare older persons for employment or community service work are developed, the government should encourage the private sector to implement and build upon these. Coordination and strong linkages between traditional and non-traditional opportunities, including telecommunications, must be encouraged because many adult educational and/or training programs have been developed outside the traditional classroom setting where many older persons prefer to learn.

The training needs of those providing services to the elderly will increase as the frail elderly population increases. Therefore, institutions of higher learning should provide training in gerontology, geriatrics and in-service training for practitioners. The federal government should encourage this effort by establishing certifying programs for practitioners. Also training should be available to providers in non-aging fields who lack opportunities for professional gerontological training.

HOUSING POLICY

For the elderly, adequate housing at an affordable price is essential to most other aspects of their lives. Since the cost of housing consumes nearly one-third of their household budget, any government program that helps them afford adequate housing also helps them afford adequate food, fuel and medical care.

The government must assure an adequate supply of shelter—with related services—for the elderly and should financially assist low and moderate-income older persons with the cost of housing. Elderly housing policy should be flexible in both the types of housing made available and eligibility standards. In addition, government programs should promote and, as soon as possible, provide financial incentives for private, alternative living arrangements, such as group homes, the recycling of existing housing stock and use of equity, to postpone institutionalization and dependency upon public assistance. Government programs must also address the needs of the rural elderly.

The Section 202 Housing for the Elderly Program and the Section 8 Rental Assistance Program have been the government's principal response to elderly housing needs over the past few years. Now, the Administration is apparently persuaded that the best method of providing affordable housing to low income persons, including lower income elderly is through the use of housing vouchers. The President's Housing Commission has recommended that such housing assistance be available only to persons below 50 percent of area median income. (Assistance under the Section 8 program is based on 80 percent of area median income.) The Commission would eventually terminate the Section 202 and Section 8 programs. It is the Commission's position that vouchers would stretch federal housing dollars further while still meeting the needs of low-income tenants and qualified homeowners. It is felt that the federal effort can also benefit from the use of Community Development block grants.

The Associations do not oppose these recommendations in principle but would insist on an extended transition period as any voucher program is phased in and would urge then an appropriate percent of block grant funds be used specifically for elderly housing. For the present, until an alternative can be proposed and tested, the Associations think the Section 202 direct loan program should remain the primary vehicle supplying housing for the elderly. Section 8 funds, which provide rental subsidies to the low-income, should continue to be available in increasing amounts for use with Section 202 projects. To stimulate other construction, rehabilitation and use of existing housing, the Department of Housing and Urban Development (HUD) should continue efforts to expand the role of state housing finance and development agencies and local housing authorities.

Congregate housing provides shelter along with nutrition, housekeeping and personal care assistance for the elderly in public and private, non-profit housing projects. Sufficient funds should be appropriated and coordination of support services should be mandated between HUD and the Administration on Aging (AoA) to expand the congregate housing facilities available and provide a more adequate evaluation of assisted residential living as a long-term economical response to institutionalization. Other programs that justify further funding and appraisal are home maintenance, home delivery, nutrition, transportation and homemaker/home health services, all of which enable the elderly to remain in their homes. In addition, HUD should emphasize demonstration projects dealing with residential security and reduction of crime.

Most of the consideration at the present time is going to the needs of renters without addressing the needs of elderly homeowners. There is an acute shortage of safe, well-designed and affordable housing that has appropriate support services for the older population. The Associations believe this shortage could be addressed, at least in part, through development of housing coalitions that would have access to community development block-grant funds, tax-exempt bonds, and a federal housing administration insured program created for this purpose.

As an adjunct to government efforts to help the elderly remain in their homes, the concept of the reverse annuity mortgage should be thoroughly explored. Under this concept, older homeowners would be able to convert their home equity into current income while still retaining title and possession for life. However, appropriate safeguards must be established to protect older homeowners against fraudulent loss of both home and equity in such transactions.

In terms of Housing Policy, the issue of rent controls and their impact on the elderly's ability to remain in their homes merits discussion. Proposals have been advanced that would deny federal grants to cities which have rent control laws in place. Such controls, opponents charge, discourage investment in new rental properties, encourage conversion of existing properties to condominiums or cooperatives and prevent landlords from generating enough income to maintain rental properties. Although the Associations are sympathetic to some of these arguments, rent controls could not be lifted abruptly without causing severe hardship to, and perhaps displacement of, low-income renters, many of whom are elderly. Therefore, the Associations would oppose any proposal that predicates federal grant money on an abrupt lifting of existing rent controls. Instead, the Associations favor tax incentives to encourage development of moderately priced rental units and subsidies to community agencies to help them plan for developing sufficient rental property to meet local needs. Once these tax incentives and plans produce additional units, rent controls could be removed.

LEGAL SERVICES

Legal service programs are essential to the elderly because large numbers of them cannot afford to purchase legal representation privately. Older persons not only have the same legal service needs as most other Americans but also additional legal requirements directly related to their unique health, income and discrimination problems. Legal services help these individuals to obtain basic necessities, such as health care, in-home support services, protective services, and benefits from programs like social security and SSI.

It is particularly important that elderly persons retain their independence and dignity; decisons about their lives should be made by the individuals themselves and by their families. Legal services support these traditional values by informing older persons of their rights, reminding them that they are not helpless and assisting them to regain control over their lives.

For all of these reasons, the Associations believe it is imperative that legal services programs remain strong and that private bar resources serve to supplement them. Consequently the Associations continue to support the preservation and strengthening of legal service programs under the Legal Services Corporation and the Administration on Aging.

NUTRITION

Balanced, nutritional diets can help older persons avoid chronic ailments and high medical expenses. However, such diets require that the elderly be able to determine the nutritional ingredients of packaged foods, have no severe income limitations, and be informed as to what constitutes proper diet.

Mandatory labeling standards should be developed listing nutritional values; ingredients by percentage and other essential consumer information. Descriptive illustrations on product or shelf should be used to convey such information. Mandatory labeling is particularly necessary with respect to the sodium content of processed food since it is recognized that excess sodium in the diet is directly related to high blood pressure, heart attacks and strokes. The food industry should also be encouraged to offer products which contain minimum or negligible quantities of salt and/or sugar to accommodate those who are on restricted diets. Food retailers should utilize both unit and item pricing.

The AoA Nutrition Program, with its home-delivered meals aspect, provides needy elderly with at least one nutritional meal a day, five days a week. Although outreach is required under the program, it is often not attempted since the program is already operating at the maximum level permitted by funds available. Better information is needed to determine the potential number of eligible participants and, thus, the maximum cost. Once that information is obtained, the funding deficiency should be remedied. A study should also be undertaken to determine the extent to which home-delivered meals, particularly in rural areas, can be supplied in frozen form so that they would need to be delivered less often.

To date, nutrition education has been minimal and rarely directed toward the elderly. Therefore, nutrition education programs should be developed with special focus on low-income and minority elderly groups.

THE OLDER AMERICANS ACT AND SOCIAL SERVICES

Congress enacted the Older Americans Act (OAA) to (1) assist persons 60 or older to live independently in their own homes and (2) remove individual and social barriers to economic and personal independence for the elderly. Because of the home health, homemaker, chore, friendly visitor and other vital services provided under the Act, many older persons have been able to remain in their own homes and avoid institutionalization.

Since it was implemented, the nutrition program, for which the OAA provides, has enjoyed a record of success, providing nutritious meals and an opportunity for social interaction. In addition, the nutrition program reaches out and serves the homebound.

Research, training and demonstration programs under the Act complement the delivery of social services. Many service providers in the Administration on Aging's (AoA) network receive either short-term of career-type training under Title IV. Several innovative programs have evolved from AoA demonstrations, including the nutrition program for the elderly and the Retired Senior Volunteer Program (RSVP).

The 1981 OAA Amendments should build upon the solid achievements of the original Act and its subsequent extensions. The new amendments will grant greater flexibility to state and local offices on aging, but will maintain priority services for the elderly. Nutrition will remain a separate program, but local offices on aging will have greater latitude in allocating funds between nutrition and social services.

The Associations recommend the following actions to insure the continued success of the Older Americans Act. First, OAA should remain a separate program with earmarked funding; it should not be subsumed in an overall block grant. Second, it should be fully funded. Third, existing authorizations should be reviewed to determine whether they should be bolstered to keep pace with anticipated inflation and demand. Fourth, AoA should monitor the Act closely to insure that persons with the greatest economic or social needs are effectively served, as required by law. Fifth, funding for Title IV's research, training and demonstration projects should be increased to more adequate levels. Sixth, under Title III, specific emphasis should continue to be placed on provision of a continuum of care for the vulnerable elderly; supportive services should be coordinated so that those elderly who have mental and/or physical disabilities have the option of remaining in a home or congregate housing environment as long as possible. Finally, AoA should take positive steps to remove needless paperwork requirements for state and local offices on aging, service providers and others.

The newly restructured Title XX social services program under the Social Security Act is designed to implement several goals that include: (1) helping people live independently and maintain self-sufficiency; (2) preventing or remedying abuse or exploitation of children and adults; (3) providing in-home services to prevent people from being prematurely or unnecessarily institutionalized; and (4) providing services to individuals in institutions when appropriate. The Associations believe that administrative linkages between state plans under the Older Americans Act and Title XX state social services plans should be strengthened. Older individuals and local programs should participate in the Title XX planning process and the commitment of Title XX funds to implement the goals of state and area agency plans.

Although many state and local social service programs are supported by revenue sharing funds, the elderly have never received their fair share of these funds. To correct this, the federal government should require that greater consideration be given to the elderly's needs in distributing any revenue sharing funds available and that the elderly be given opportunities to be involved in the fund allocation process.

Federal policy should encourage families, volunteers and community groups to provide social services to the elderly. Families and unrelated individuals who provide care for older persons should be helped financially, educated as to proper techniques in caring for dependents, and made eligible for social support services. (See Health Policy and Tax Policy for further discussion.)

New and expanded roles should be provided for volunteers, especially since funding for service programs is generally being held in check or reduced. Volunteers should receive appropriate training, supervision and reimbursement for out-of-pocket expenses. The use of volunteers can be encouraged through the AoA network and ACTION's older American volunteer programs: RSVP, Foster Grandparents and Senior Companions. These programs should be adequately funded to insure that volunteers can help to compensate for the loss of social service funds.

Finally, there should be a comprehensive national study examining: (1) how services can be delivered more effectively to the elderly; (2) approaches to strengthen services delivered by families and informal support systems; and (3) overall financing and manpower needs. Problems of underserved groups should be studied closely, particularly for the minority elderly and those living in rural areas.

TRANSPORTATION

For the most part, the elderly's transportation needs are intertwined with those of the general public and can be met through a coordinated and improved transportation system which adequately serves the entire community. Certainly much more funding ought to be committed to mass transit in both urban and rural settings. To help meet the elderly's needs, special subsystems should be used as part of the total transportation system, particularly in areas where transportation services are limited or nonexistent.

The Association support regulatory efforts which allow local communities some flexibility in complying with the statutory requirement that all transit facilities and vehicles must be "barrier free" (i.e., accessible to wheelchairs). By giving local communities some options in accommodating the disabled, the needs of the handicapped and the elderly and the financial concerns of the communities can be reconciled.

Because transportation is the link to all other human services needed by the elderly, it must be affordable and reasonably accessible in terms of vehicle design and routing to the places elderly persons need to go. Therefore, efforts should be made on the federal level to improve accessibility for older persons through reduced fare programs, universally accepted identification cards for mass transit discounts (for example, Medicare cards) and the coordination of transportation services across human service programs.

Restrictions placed on persons who can be insured raise transportation costs for human service programs. For example, social service agencies are often unable to use older volunteer drivers because insurance often cannot be obtained for drivers above an arbitrary age. Utilization of school, church and privately-owned buses or vans is limited because, again, insurance often does not cover the social service clients who could be transported in such vehicles. Certainly, remedying these problems could promote more efficient use of transportation resources and, at the same time, enhance the elderly's and the poor's access to many social services available in the community.●

SAUDI DEMONSTRATION OF M-1 TANKS

● Mr. BOSCHWITZ. Mr. President, the U.S. Army plans to send two M-1 tanks to Saudi Arabia this summer to help demonstrate the latest model U.S. tanks to that country's officials.

The press reports of the plans aroused some concern that the demonstration might be viewed by the Saudis as a commitment, implied or otherwise, to sell them M-1 tanks. During the 1981 debate over the sale of AWACS to Saudi Arabia, Saudi officials contended they had a commitment from the U.S. Government to sell the planes. Apparently this was based on private conversations with some officials of the previous administration. Saudi interest was enhanced by demonstrations of the AWACS plane in Saudi Arabia to top Saudi officials including members of the royal family.

Because of this history, Senator SARBANES, the ranking minority member of the Senate Foreign Relations Committee on the Near East, which I chair, and I sent a joint letter to the President to express our concerns. Congress should not be told, some time in the future, that a commitment had been made to sell the tanks and that the demonstration was part of the commitment.

The State Department recently replied that the Saudis "clearly understand that demonstration of a particular item of military equipment does not imply an American commitment to sell that item."

I ask to place the exchange of letters in the RECORD.

The letters follow:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., April 6, 1983.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: We are writing to express our concern over recent reports that the United States intends to ship M-1 Abrams tanks to Saudi Arabia for testing and demonstration there. In particular, we are concerned that this action may be interpreted as a commitment, implied or otherwise, to sell M-1 tanks to the Saudi government.

Spokesmen for the Department of Defense have confirmed that the tanks are

scheduled to be shipped to Saudi Arabia this summer. We now ask your assurance that the tanks are meant for testing and demonstration only, and that no sale is contemplated or intended in connection with the shipment. In so doing, we seek to avoid any misunderstanding between the U.S. and Saudi governments that might later lead the Saudis to claim an M-1 sale to be a "litmus test" of U.S.-Saudi relations.

We look forward to your prompt reply about this serious matter.

Sincerely,

RUDY BOSCHWITZ,
Chairman, Subcommittee on Near East and South Asian Affairs.
PAUL SARBANES,
Ranking Minority Member.

U.S. DEPARTMENT OF STATE,
Washington, D.C., April 2, 1983.

Hon. RUDY BOSCHWITZ,
Chairman, Subcommittee on Near East and South Asian Affairs, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: I am responding on behalf of the President to your joint letter with Senator Sarbanes of April 6 regarding the Administration's decision to demonstrate the M-1 tank in Saudi Arabia this summer.

This demonstration of the M-1 tank and the Bradley M-2/M-3 fighting vehicles will be a follow-up to a similar demonstration for Saudi observers conducted in the United States during 1982. We will be sending two M-1 tanks, one M-2, and two M-3 vehicles to Saudi Arabia on a temporary basis. This equipment will remain the property of the United States, and will be returned to U.S. Army inventories following the demonstration. The demonstration is being held at Saudi request, and the Saudi Arabian Government will bear all costs incurred.

We have received no request from the Saudi Arabian Government to purchase the M-1 tank or the fighting vehicles. The Saudis are looking at armored equipment from a number of countries in order to make an informed decision on how they can best improve their defensive capabilities. They clearly understand that demonstration of a particular item of military equipment does not imply an American commitment to sell that item.

Let me assure you that if a Saudi request to purchase the M-1 is made, it will be given careful scrutiny and consideration by the Administration in accordance with standard practice and law, including notification of a sale to the Congress prior to its approval.

I hope you have found this information helpful.

With best wishes,

Sincerely,

POWELL A. MOORE,
Assistant Secretary for Congressional Relations.●

PRINCESS YASMIN COMMENDED FOR EFFORTS RELATING TO ALZHEIMER'S DISEASE

● Mr. PRESSLER. Mr. President, I have come before this body many times in the past to speak about the problem that Alzheimer's disease presents to millions of older Americans and their families. Princess Yasmin Aga Khan is a woman I am proud to call my friend and someone who has done a great deal to increase public awareness about Alzheimer's disease. Her efforts in this area have been outstanding. She has gone before the public many times to share the story of the tragic effects of this disease, and her assistance has contributed enormously to the increasing recognition that Alzheimer's is, in fact, a national problem.

Mr. President, I would like to say here that Princess Yasmin deserves the thanks of all of us for her unselfish and extraordinary efforts. Recently, she received a letter from President Reagan in recognition of her work in this area. I would like to join the President in thanking Princess Yasmin as well, and to ask that the President's letter be printed in the RECORD.

The letter follows:

THE WHITE HOUSE,
Washington, D.C., May 10, 1983.

Princess YASMIN AGA KHAN,
New York, N.Y.

DEAR PRINCESS YASMIN: Like most Americans, my true understanding of the tragedy called Alzheimer's Disease is relatively recent. For too long this insidious, indiscriminate killer of mind and life has gone undetected, while the families of its victims have gone unaided.

In your letter, you asked for my help in increasing this awareness—among the public, insurance companies and governmental representatives. It is assistance I will provide whenever and wherever possible.

You asked, too, for the commitment of additional research funds. I am pleased to note that Federal funding for this will increase by nearly 50%—from $17 million to $25 million—in fiscal 1984. Also, Secretary Margaret Heckler of the Department of Health and Human Services has established a Task Force on Alzheimer's Disease to coordinate and promote the Department's many activities in this area.

In closing, I sincerely wish to applaud your efforts and those of the thousands of ADRDA volunteers who tirelessly provide support and hope to Alzheimer's families nationwide.

Sincerely,

RONALD REAGAN.●

STRUGGLING FOR DEMOCRACY AND HUMAN RIGHTS IN SOUTH KOREA

● Mr. KENNEDY. Mr. President, I wish to discuss again the deep concern which I share with such outstanding leaders as Mr. Kim Dae Jung and Mr. Kim Young Sam about the continuing repression in South Korea. I would like to take this opportunity to renew my expression of support for the goals of democracy and human rights to which Mr. Kim Young Sam committed himself during his recent hunger strike, which began on May 17, and has just ended.

We know that Mr. Kim and other Korean democratic leaders will continue to do all they can to further the cause of freedom in their land. I commend Mr. Kim for his commitment and his sense of responsibility to those who look to him for leadership in this great cause.

I have expressed my concern for Kim Young Sam's health, as well as my support for the goals of his hunger strike, to officials of both the American and Korean Governments. I have also expressed my hope for renewed efforts to achieve accommodation with the legitimate views expressed by Mr. Kim and his supporters. I know that many in the Congress and our Nation share the same concerns at this important time in the struggle for democracy and human rights in Korea.

Mr. Kim Dae Jung, the highly respected opposition leader who came to the United States this past December and who has met with me and many others in Congress since then, has written an important article in the New York Times regarding Kim Young Sam's hunger strike and its wide-ranging implications. The article provides valuable and timely insight into what our Nation's goals should be not only in Korea but elsewhere in the world.

In his article, Kim Dae Jung states that "all Koreans ask is that the United States now make clear its support for the restoration of democracy in South Korea, a country that has been a staunch ally for 3½ decades," and that "without democracy there is neither lasting security nor stability."

Mr. President, I submit for the RECORD Mr. Kim Dae Jung's article and excerpts from Mr. Kim Young Sam's May 2 "Statement to the Citizens of South Korea."

The material follows:

[From the New York Times, June 9, 1983]

KIM'S HUNGER STRIKE

(By Kim Dae Jung)

WASHINGTON.—The political unrest that has erupted in South Korea in recent weeks warrants a prudent decision by the United States Government. Kim Young Sam, former president of the now-banned New Democratic Party, has been on a hunger strike since May 17 to dramatize the popular desire for democracy in the country. He now is bordering on unconsciousness.

In his statement announcing the hunger strike, Mr. Kim demanded specific democratic reforms that include: release of all prisoners of conscience; restoration of the civil rights of those who have been deprived of them for political reasons: guarantee of freedom of expression; and rescinding of all antidemocratic laws. Mr. Kim also registered a strong protest against United States support for the repressive regime in Seoul.

Kim Young Sam's hunger strike and subsequent developments in South Korea have significant political implications. His action marks the first open confrontation between the Government of President Chun Doo Hwan and politicians who have been silenced by the regime's "Political Restriction Law."

Further, it has become a catalyst for a coalition of opposition politicans and other democratic figures, including clergymen, scholars and students. An increasing number of students have staged demonstrations on and off campuses that have resulted in a heightened level of popular unrest.

The South Korean Government has failed to take any positive steps in response to Mr. Kim's hunger strike. The authorities have prevented the news media from mentioning it and have tightened the suppression of Mr. Kim's supporters through house arrest and other measures. The Chun Government is unwilling to make any compromise with Mr. Kim. Yet it is incapable of suppressing Mr. Kim and his supporters, who are willing to risk their lives in nonviolent resistance.

Even though Mr. Kim's actions represents the democratic aspirations of the South Korean people, the United States Government has appeared indifferent. In the context of South Korean-United States relations, which have been defined by the presence of 40,000 American troops in South Korea and close political and economic ties, such an American attitude will be widely interpreted as tacit support for the repression in South Korea.

Quiet diplomacy has its place, but it has not worked effectively in this case. Moreover, Washington should never appear to abandon the principle of democracy and human rights, and it is for this principle that Mr. Kim is approaching death.

If takes no great insight to understand that Washington has to deal with those who are in power. Just as America had to deal with President Syngman Rhee's autocratic Government in the 1950's, so must it deal with the Chun regime. But it should be recalled that the United States Government evoked the gratitude of the South Korean people when, toward the end of Mr. Rhee's rule, it gave moral support to the nation's democratic movement. Similarly, the Carter Administration won the trust of the South Korean people through its support for human rights, even though its implementation of the policy was uneven.

We Koreans can never overemphasize that the task of restoring democracy is for the Koreans themselves. We Koreans are not asking anyone else to do the job for us, nor do we welcome interference in our domestic affairs. All we ask is that the United States now make clear its support for the restoration of democracy in South Korea, a country that has been a staunch ally for three and one-half decades.

Some of our American friends may say that dictatorship in South Korea, while objectionable, ought to be tolerated because of security needs and stability. I disagree. Without democracy there is neither lasting security nor stability. The best evidence is the current political instability in South Korea. Would American citizens accept a dictatorial form of government for themselves because of the threat from the Soviet Union? I think not. Why then should it be different for South Koreans because of the threat from North Korea?

Some may even argue that South Koreans are not ready for democracy. I believe that this argument is untenable in view of the fact that the educational, cultural and economic standards of the South Korean people far surpass those of Americans 200 years ago, when American democracy was established.

It is time for the United States Government to reaffirm the importance of freedom in South Korea. Without the restoration of democratic government and institutions, there will be neither stability nor security in my country.

Kim Young Sam's fast and its political impact seriously challenge the United States Government to reconsider its policy.

EXCERPTS FROM "STATEMENT TO THE CITIZENS IN SOUTH KOREA"

(By Kim Young Sam)

I appeal to the patriotic citizens who desire democracy and, at the same time, to my political colleagues in South Korea, to overcome whatever situations and differences and consolidate your strength and focus it on the restoration of democracy for the country.

* * * * *

My fellow citizens! We should bear in mind that democracy for our land can only be achieved by our own efforts and sacrifices. No allies or foreign powers can or will do the job for us. We, the minjung, the citizenry, should bear the awesome responsibility . . . I share the hope for the future with you. We shall stand up and move forward leaving despair behind us.

* * * * *

Finally, I challenge the current regime in our country to come up with solid evidence if it indeed wants democracy. I ask if the regime is willing to take the measures, outlined below, which I consider to be basic conditions for the restoration of democratic government.

1. To release the students, religious leaders, intellectuals, and workers who are languishing in prison for their participation in democratic movement.

2. To lift the political ban on certain individuals and allow all the citizens, including politicians, to freely participate in political process.

3. To reinstitute in their respective original status the professors, students, and workers who have lost their position for political reasons, and to restore civil rights to those who had been deprived of it for the same reason since the Yushin (Park Chung Hee) repression.

4. To guarantee freedom of expression, to rescind the control of press, to allow the reemployment of journalists fired for political reasons, and to liberalize the control on private media and Christian Broadcasting System.

5. To rescind all anti-democratic laws "unlawfully" enacted by the current regime, including laws on political activities, press, rally, national security, election for national assembly, presidential election, and labor law.●

EXPOSURE SUITS

REQUIREMENTS FOR MOBILE OFFSHORE DRILLING UNITS (MODU'S) AND OTHER OCEANGOING AND COASTWISE VESSELS

● Mr. TRIBLE. Mr. President, on February 12, 1983, the collier, *Marine Electric*, sank. Of the 34 persons on board, 31 lost their lives. Unfortunately, this was not an isolated occurrence, but merely the last in a series of similar disasters.

In 1971, the M/V *Maryland* sank, with the loss of six of its seven crewmen. In 1973, the M/V *Comet* sank, with the loss of 16 of its 27 crewmen. In 1975, the SS *Edmund Fitzgerald* sank, with the loss of its entire crew of 29. And, 1 year ago, the mobile offshore drilling unit (MODU), *Ocean Ranger*, sank, with the loss of all 84 persons on board. In each instance, lives would have been saved if the crew had exposure suits available for their use.

To prevent a recurrence of these tragedies, I have introduced legislation, S. 1441, which would require protective garments, or exposure suits, on all commercial oceangoing or coastwise vessels as well as MODU's—with the exception of passenger vessels—which operate in waters colder than 60 °F.

The National Transportation Safety Board has been advocating provision of exposure suits for more than a decade. It first called for such gear when the freighter *Maryland* sank in 1971, and renewed the call when the *Comet* sank 2 years later. My bill implements the recommendations of the NTSB.

My bill will add substantially to the safety of oceangoing commercial vessels at modest cost. The $200 to $300 cost per suit is a modest price for the preservation of life. The cost of equipping the *Marine Electric* with 36 exposure suits would have been about $10,000; a sum roughly equivalent to a captain's wages for 1 month, and less than the cost of operating the vessel for 2 days. The estimated average cost per vessel from this legislation is only $12,000.

In order to insure prompt and full compliance with the provisions of this legislation, my bill would make violations punishable by up to 2 years in jail and level a fine of up to $100,000. I believe that safety is a serious matter and calls for serious penalties.

Mr. President, I am aware that the Coast Guard has acted in this area, but the proposed regulations are inadequate.

My bill saves lives by insuring the availability of exposure suits in times of peril.●

NATIONAL DRAFTING WEEK

● Mr. CHAFEE. The designation of the week of April 4–8, 1983, as National Drafting Week marks the beginning of the second decade of the American Institute for Design & Drafting's program to commemorate the efforts of the more than 360,000 individuals in this country who work as designers and draftsmen.

Today's conventional wisdom tells us that we need to better coordinate our educational and business organizations if we are to achieve maximum efficiency and results. This goal has already been accomplished by the institutes which teach drafting and design.

I feel fortunate that one such organization—the Hall Institute—is located in Rhode Island. Hundreds of students from throughout New England have come to Hall Institute. They come for its personalized system of instruction and for its reputation for imparting to

its students the skills and attributes necessary to succeed in industry.

It is indeed fitting that Pawtucket, R.I.—the birthplace of the industrial revolution in this country—should also be the home of the Hall Institute, which is dedicated to teaching the skills necessary to keep this revolution going.

With its designation of a National Drafting Week, the American Institute for Designers & Draftsmen has helped to increase public awareness of the important contribution that designers and draftsmen make to our economy. They have my best wishes for continued success in this endeavor.●

NEW MEXICAN CAPTURES 56TH SPELLING CHAMPIONSHIP

● Mr. DOMENICI. Mr. President, as we know, performing well under stress is not easy. Blake Giddens, an eighth grader from Chaparral Junior High School in Alamogordo, N. Mex., knows this better than anyone today. Thursday, after watching 135 other contenders for the title of National Spelling Champion fall by the wayside at the hands of such words as "minestrone," "moussaka," and "echlalia," Blake became the 56th national champion of the Scripps-Howard National Spelling Bee. An award that carries with it a gold trophy, $1,000—and the pride of myself, and indeed, the entire State of New Mexico.

I understand that Blake and his mother, Nanette, spent countless hours laboring over dozens of words in preparation for his trip to Washington. It seems that at the moment of truth, all he needed was a knowledge of French cuisine. The word "ratatouille"—which I am sure not many of us could spell if our lives depended on it—enabled Blake to defeat the other surviving contender, and go on to correctly spell "purim" for the national title. I would like to take this opportunity to congratulate Blake on his stunning victory, and thank him for giving us another reason to be proud of our citizenship of New Mexico.●

REFUGEE VALEDICTORIANS

● Mr. KENNEDY. Mr. President, this week in Boston at the Madison Park High School, Hoan Binh La stood proudly in cap and gown as the valedictorian of her class. Ms. La is a Vietnamese boat refugee who came to our country with her family after spending a long, and difficult year in a Malaysian refugee camp.

At a time when we hear a lot of negative reports about refugee resettlement problems, it is important to note the many successes as well. Ms. La was joined by three other Vietnamese refugees as valedictorians of their high school graduating classes.

In Chattanooga, Tenn., Hieu Pham delivered the valedictory address at the Red Bank High School and his message to his class is the same message that all immigrants and refugees have given to our country throughout our history.

He said:

America is the land of opportunity. Even if you are nobody, you can make yourself somebody in this land. But you have to work for everything you get.

Mr. President, I commend to the attention of the Senate two articles describing these brave refugee valedictorians who came to our shores in desperation and in need of assistance, but who already are contributing to their communities in their new homeland. I ask that they be printed at this point in the RECORD.

The articles follow:

[From the Christian Science Monitor, June 9, 1983]

FROM WAR-TORN VIETNAM TO GRADUATION WITH HONORS

(By Robert Kilborn, Jr.)

BOSTON.—They are heartwarming stories—the kind that show the United States can indeed still be a land of opportunity for those who work hard.

In Pensacola, Fla.; in Chattanooga, Tenn.; and most recently in Boston, the spotlight at high school graduation exercises this spring has fallen on three young people with something in common besides their academic achievements.

All three fled a war-torn homeland in the mid-to-late 1970s. All arrived in the US speaking no English. Yet all graduated as valedictorians, the top scholars of their class of 1983.

All three are Vietnamese.

Moreover, all three plan careers in technical fields. Ironically, their performances stand out in contrast to recent criticism of a "rising tide of mediocrity" in US public education by a bipartisan federal commission.

The first to achieve the honor was Dung Nguyen, whom President Reagan phoned to congratulate on her graduation from Pensacola High School May 31. Miss Nguyen has been awarded a scholarship to attend Baylor University in Waco, Texas, next fall to study medicine. She reportedly plans to spend the summer selling encyclopedias in Louisiana.

On June 5 in Chattanooga, Hieu Pham delivered the valedictory address at Red Bank High School, telling his fellow graduates: "We must keep in mind that nothing is free in this world. . . . We must work, work, work for the things we want."

The young man, who also hopes to study medicine or computer science, escaped with his family in a fishing boat in 1975 as South Vietnam was falling to North Vietnamese forces.

Here in Boston on graduation day, June 6, Hoan Binh La stood proudly on the stage of the city auditorium in gown and mortarboard, facing the classmates with whom she had attended Madison Park High School for the past three years. "Nothing is so difficult that we cannot face it," she said.

Miss Hoan, who left Vietnam at age 14 without her family, spent nearly a year in a Malaysia refugee camp, eating only coconut and food scraps and bathing in the ocean. Her parents, both factory workers, had saved enough money to buy passage out of Vietnam for one of their eight children. She eventually reached the US by ship, settling first in Monterey, Calif., before coming to Boston. Of the three valedictorians, she has lived in the US the shortest time.

Miss Hoan lives with relatives and earns money by working in a grocery store and tutoring other Asian children in English.

She plans to study computer science at Boston College, where she has won a scholarship. In high school she earned an "A" in every course, including advanced physics and trigonometry.

According to US Immigration and Naturalization Service statistics, more than 600,000 Vietnamese now live in the US. Their lives here have not always been easy. Even as Miss Hoan was graduating from Madison Park, vandalism and assaults in Boston against Vietnamese and others of Southeast Asian origin were on an 18-month rise, police say. Texas, California, and other states have seen similar incidents.

Old antagonisms left over from the Vietnam war have turned refugees against each other in some cases, further complicating the acclimation to a new culture.

Still, says Darrel Monetero, an Arizona State University specialist in the study of Vietnamese-Americans and author of a recent book on the subject, they have demonstrated "an incredible tenacity" that is typical of Asians who migrate to the US.

By 1979, only four years after the war, more than 250 support groups had been organized in the US by Vietnamese refugees, Dr. Montero says.

"I think we'll see more" Vietnamese achieving high academic rank in the US, he says, just as Japanese and Chinese immigrants did before them.

"When you transplant someone, making it in the United States is so incredibly easy, compared with what they experienced in their own countries; whereas Americans take so much for granted," Dr. Montero says. "In the long run, I think what we're going to see is the Vietnamese providing an excellent role model for [other] Americans to follow in school and in the workplace."

[From the Washington Post, June 5, 1983]

VIETNAM REFUGEE TO GIVE VALEDICTORY TALK IN TENNESSEE

RED BANK, TENN., June 4.—A Vietnamese refugee who spoke no English when he escaped from his homeland in a fishing boat eight years ago will serve as the validictorian at his high school graduation Sunday.

Hieu Pham, 17, said he will advise his 298 class members in his message that "you have to work for everything you get. It doesn't just fall from the sky.

"America is the land of opportunity. Even if you are nobody, you can make yourself somebody in this land," Pham said.

Pham was named valedictorian of Red Bank High School along with two other students. All three students had straight A grade averages.

Maureen Shuh, 18, came to the United States from Taiwan when she was 4 years old. The third valedictorian, Tonya Taylor, 18, was born in the Chattanooga suburb of Red Bank.

Pham won an award as the top math student at his high school and wants to become a computer programmer or a doctor.

"I consider computers as the growing field right now," said Pham, one of five students who won chancellor's scholarships to the University of Tennessee at Chattanooga.

As South Vietnam was falling to the communists in the spring of 1975, Pham fled in his uncle's fishing boat with his four brothers and sisters, his parents and more than 100 South Vietnamese relatives and friends.

"At night we could see the firing. The north was taking over the city," Pham said. "We had heard the news that they were coming. The instant we heard we had surrendered, we left immediately. We didn't know where we were going."

Pham said his father, Huu Pham, was a lieutenant colonel in the South Vietnamese army and a political officer in his hometown of Vihn Long in the Mekong Delta.

"Because my father was in the military, he would have been put in a concentration camp," Pham said. "I might have gone to a camp too or had to work to feed my family."●

THE APPOINTMENT OF LEE VERSTANDIG

● Mr. CHAFEE. Mr. President, I wish to congratulate Lee Verstandig on his appointment as Assistant to the President for Intergovernmental Affairs.

My association with Lee goes back many years—from my service as Governor of Rhode Island and Secretary of the Navy and Lee's tenure with both Rhode Island College and Brown University.

During my first term in the U.S. Senate, Lee served initially as my legislative director and then as administrative assistant. No function in that office—be it national issues, local problems, or constituent mail—escaped Lee's watchful eye.

Ths same dedication marked his service as Assistant Secretary for Governmental Affairs to Transportation Secretary Drew Lewis. Whether it was fielding inquiries regarding the air traffic controllers strike or convincing Members of Congress on the administration's program for Conrail or a tax on gasoline, Lee earned respect and admiration for his integrity and attention to detail.

Most recently, Lee's efforts at getting the embattled Environmental Protection Agency off the front page of our Nation's newspapers and back on track toward protecting our environment have won high marks. He won especially high marks from members of the Senate Environment and Public Works Committee on which I serve.

I wish Lee continued success in his new position. The President will not be losing friends in Congress because of this switch—he will be gaining new ones in State houses and city and town halls across the country.●

VOTING PROCEDURE—STACKED VOTES

Mr. BAKER. Mr. President, the day before yesterday the minority leader and I had a colloquy pursuant to certain questions raised with respect to stacking votes. He made some very pertinent observations about some difficulties which could occur if the votes are stacked. I have thought a lot about that. I have conferred with the Parliamentarian about it and with other Senators.

I must say I believe that even though we have not had to face those difficulties and dangers in the past, at least not to my knowledge, the dangers and difficulties pointed out by the minority leader and certain others are very real in the way of an order to stack on any bill.

Mr. President, in addition to that, what has happened today, as the distinguished manager of the appropriations bill pointed out, is also typical of what happens when you stack votes. That is, everybody leaves town. Nobody will call up amendments. We end up with hours of quorum calls and wasted time.

What I am about to say, Mr. President, is not said on the spur of the moment, nor in anger. That is why I have gone to some length about what I am about to say. I have been thinking about if for a while. I believe it is a sound procedure.

Let me say for the benefit of all Senators, and I hope the staffs of Senators will note this in the RECORD and call it to the attention of their Senators, I do not intend to stack votes any more.

Mr. President, I suggest the absence of a quorum.

Mr. BYRD. Mr. President, will the Senator withhold for a moment?

Mr. BAKER. Yes.

Mr. BYRD. Mr. President, the majority leader has been so accommodating, far more accommodating than I was when I was majority leader. I did not do much stacking of votes.

The majority leader has attempted to accommodate every Senator in this Chamber of his, the majority leader's, sometimes disadvantage, to the disadvantage of the chairman of the committee, and the disadvantage of the ranking minority member.

The stacking of votes has become very frequent of late, and the more it is done, the more it is asked to be done. It has been done for Members on my side; it has been done for Members on the other side.

Mr. President, I fully understand the majority leader's reasoning here. I have to say I think he is right.

I know that there will be Members on my side of the aisle and on his side, who would not want him to stop stacking votes, but it will create one big problem. Furthermore, it grows and grows and grows, like the prophet's gourd grew overnight.

So I fully understand the position of the majority leader.

There may be some good, emergent reason or reasons sometimes for stacking votes, but I think it is leading the Senate further and further down the road into what could become a difficult problem. It could embarrass the majority leader one day and the minority leader and other Senators.

It is as the majority leader has said: when we say we will not have votes on Fridays and Monday, everybody leaves town. I might do the same if I were not the minority leader. But the ranking member (Mr. STENNIS), the chairman of the committee (Mr. HATFIELD) and the chairmen of all the subcommittees are involved. They stand on the floor to act on amendments, and Senators with amendments sometimes are out of town.

But the majority leader is into June and we have some work that has to be done. I told him yesterday that I wanted to leave at 5 o'clock next Tuesday to go to West Virginia. But I want him to know right now that he can just forget that on my part, and plow right ahead with getting this bill finished. I will have to decide whether to go to West Virginia or stay here for votes, that will have to be my decision.

I think it is very important that this bill be finished next week. I want to proceed with the chairman and other members of the appropriations committee to mark up the energy and water resources bill as quickly as we can. If the chairman is going to be tied up here on Tuesday and Wednesday on this bill, we are going to be delayed in marking up that bill and going to conference.

I fully sympathize with the majority leader. This is said with no criticism of any Senator who may seek to have votes stacked. I do not quarrel with them; if they can get votes stacked and can be out working in their States, I do not criticize them for that. But to the majority leader, I must say, he has taken a position and I am supportive.

Mr. BAKER. Mr. President, I thank the minority leader and I am grateful for his support.

Mr. STENNIS. Will the Senator yield for just a moment?

Mr. BAKER. Yes, Mr. President.

Mr. STENNIS. Something has been said for the majority leader and something has been said for the minority leader and they have spoken. I want to say something for the rank and file of the Senators.

I think it is up to the Senator to decide what he wants to do on a given day. If he wants to go away, he can do that. If he wants to stay here and tend to business, he can do that. But it is his responsibility as well as his choice. The Senate is an institution and it has to go on, day after day, and do its business.

I am the first one to criticize, but I believe that is the real test. People do not know—this would fail parliamentary law, but I believe that, too, it is the individual responsibility of an individual Senator as to what he will do on a certain day.

Mr. BYRD. Will the Senator yield when he is finished?

Mr. STENNIS. I am through, Mr. President, except I was thinking about no votes for 2 days would cause a slowdown here, but there are so many pluses in favor of the Senator from Tennessee that I was not going to say anything about it. But he got up and said something.

Mr. BYRD. Mr. President, may I say that I think we have to acknowledge that some Members on both sides are out today on a NATO Alliance trip. This is important. They were appointed to act by both the majority leader and minority leader through the Chair, is that correct?

Mr. BAKER. That is correct, Mr. President.

Mr. BYRD. What we have said is in criticism of nobody, but I think we are facing a real problem here. The majority leader has my support.

Mr. BAKER. I thank the Senator.

SUPPLEMENTAL APPROPRIATIONS, 1983

AMENDMENT 1367

Mr. BAKER. Mr. President, I yield to the Senator from Connecticut.

Mr. WEICKER. Mr. President, I ask unanimous consent that my amendment No. 1367 to the supplemental appropriations bill be withdrawn at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment was withdrawn.

ORDER OF BUSINESS

Mr. BAKER. Now, Mr. President, we have 6 more minutes for the transaction of routine morning business, when I intend to ask the Senate to recess until Monday.

Mr. MATSUNAGA. Mr. President, will the Senator yield?

Mr. BAKER. Yes; I yield.

"KE ALII, HAUOLE LA HANAU"

Mr. MATSUNAGA. Mr. President, today, the people of the State of Hawaii are celebrating Kamehameha Day, honoring King Kamehameha I, the monarch who united the Hawaiian Islands into a single nation after a bitter 10-year civil war in the late 18th century.

In Hawaii, this State holiday is marked by parades and luaus or feasts, while in the Nation's Capitol, Kamehameha Day will be observed this Sunday, June 12, when the Hawaii congressional delegation and the congressionally chartered Hawaii State Society will hold their annual ceremony in front of the statue of King Kamehameha I in Statuary Hall. At that time, the great King's golden statue will be draped with fragrant fresh flower leis flown in from Hawaii for the occasion, and authentic Hawaiian chants will be sung and hula dances will be performed by costumed musicians and dancers.

Kamehameha was a truly remarkable leader who judiciously used his power to promulgate just and honorable laws, His approach to leadership earned for him the respect of the people of Hawaii and he became known as a protector of the common man. One historian said of Kamehameha, "No king in history ever knew better how to rule his people." Indeed, there were few rulers in the 18th century who revered human rights as much as he. An outstanding example of his feelings for humanity and justice is the "Law of the Splintered Paddle," which he promulgated immediately after he became ruler of the United Kingdom of Hawaii. He laid down the law as follows:

O my people,
Honor thy God;
Respect alike (the rights of) men great and humble;
See to it that our aged, our women and our children
Lie down to sleep by the roadside without fear of harm.
Disobey, and die.

A man of deep convictions, Kamehameha is credited with preserving and strengthening the ancient Hawaiian way of life, while at the same time seeking the friendship and assistance of newcomers to the islands, such as the western traders who came to Hawaii during his reign. In his regard for the rights of others, and in his concern for social justice, he had a great deal in common with those who united the Thirteen Colonies and fought to establish a new, democratic nation—the United States of America. It is entirely appropriate therefore, that his statue stands in Statuary Hall along with George Washington, Thomas Jefferson, and other Founding Fathers of this great Nation.

Kamehameha's achievements in war and peace are happily shared by the people of Hawaii with our fellow Americans and with all people of the world. And in his memory we say: "Ke Alii, Hauole La Hanau. To the King, Happy Birthday."

I urge my colleagues and their families to join the Hawaii congressional delegation and the Hawaii State Society for Sunday's celebration, which begins at 1 p.m. in Statuary Hall of the Capitol.

TRIBUTE TO FORMER SENATOR MILTON R. YOUNG

Mr. LAXALT. Mr. President, on May 31 with the passing of Milton R. Young, the Senate lost a gentle and gracious former colleague. I join the people of North Dakota in mourning the death of their longtime, humble and honest public servant, whose Senate career spanned a period of 35 years and 10 months. I extend my deepest sympathy to his wife, Patricia, and to his family, and pray that time will ease their sorrow.

Mr. President, I am privileged to have served 6 years with Milt Young—beginning my first term as Milt began his final term in the Senate. Others have spoken of Milt's friendship and willingness to share his knowledge and experience with younger colleagues. Upon my appointment to the Appropriations Committee in the 96th Congress, I found Milt always eager to "lend an ear," assist a new member of the committee and offer sound advice and counsel.

Mr. President, Milt Young respected the Senate, believed in the committee process and strove with unrelenting determination to protect and improve the institution and that process. As ranking Republican on the full Appropriations Committee and the Defense Subcommittee, Milt attended meetings faithfully and fought diligently for a strong national defense in order to preserve those freedoms he so highly cherished. His quiet, untiring presence was an inspiration to all who served with him.

In the words of our 16th President, Milt Young believed that, "This country with its institutions, belongs to the people who inhabit it." He honored those institutions and traditions and never lost sight of the aspirations and hopes of those whom he served.

Mr. President, I am proud to have called Milt Young a friend.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, there is an order that the Senate recess until Monday. I do not propose to change that. Let me now put a unanimous-consent request in several parts for the consideration of the minority leader and the Senate.

First, I ask unanimous consent that if the Senate adjourns today, when it reconvenes on Monday, the reading of the Journal be dispensed with, that no resolution come over under the rule, that the call of the Calendar be dispensed with and, following the time allocated to the two leaders under the standing order, that there be a period for the transaction of routine morning business for not to exceed the hour of 1 p.m., with Senators permitted to speak therein for not more than 5 minutes each, and provided further that the morning hour be deemed to have expired.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL MONDAY, JUNE 13, 1983

Mr. BAKER. Mr. President, to get that order in place now, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 noon on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended for 10 minutes under the same terms and conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I have a series of items that I should now like to invite the attention of the minority leader.

First, Mr. President, I propose to pass House Joint Resolution 201, if the minority leader is prepared to consider that at this time.

Mr. BYRD. Mr. President, there is no objection.

Mr. BAKER. I thank the minority leader.

BALTIC FREEDOM DAY

Mr. BAKER. Mr. President, I ask unanimous consent that the Chair lay before the Senate House Joint Resolution 201 designating June 14, 1983, as "Baltic Freedom Day."

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (House Joint Resolution 201) designating June 14, 1983, as "Baltic Freedom Day."

There being no objection, the joint resolution (House Joint Resolution 201) was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was adopted.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE DISCHARGED—BILL PLACED ON CALENDAR

Mr. BAKER. Next, Mr. President, I say to the minority leader that I propose to discharge the Committee on the Judiciary from further consideration of House Joint Resolution 234 and, assuming that consent is granted, to ask that the resolution be placed on the calendar.

May I inquire of the minority leader if he would approve of that request?

Mr. BYRD. Mr. President, there is no objection.

Mr. BAKER. I make that request, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE DISCHARGED—BILL PLACED ON THE CALENDAR

Mr. BAKER. In a similar vein, Mr. President, I next propose that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 86, the National Brick Week resolution, and that it be placed on the calendar.

Mr. BYRD. Mr. President, there is no objection.

Mr. BAKER. I make that request, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO HOLD H.R. 9 AT THE DESK

Mr. BAKER. Mr. President, may I inquire of the minority leader if he would object to unanimous consent to hold H.R. 9, which is an act to designate components of the national wilderness preservation system in the State of Florida, at the desk until the close of business on Tuesday, June 14?

Mr. BYRD. Mr. President, there is no objection.

Mr. BAKER. Mr. President, I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO HOLD H.R. 2477 AT THE DESK

Mr. BAKER. Mr. President, I make a similar request in respect to H.R. 2477, which is an act entitled the "Sipsey Wilderness Additions Act of 1983," and that it be held at the desk until the close of business on Tuesday, June 14.

Mr. BYRD. Mr. President, there is no objection.

Mr. BAKER. I make that request, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

SEQUENTIAL REFERRAL OF S. 1101

Mr. BAKER. Mr. President, now I propose that S. 1101, a bill to authorize appropriations for certain fishery programs, be sequentially referred to the Committee on Agriculture, Nutrition, and Forestry to consider provisions of section 1 of the bill relating to aquaculture for a period of not to exceed June 30, 1983, if there is no objection.

Mr. BYRD. There is no objection, Mr. President.

Mr. BAKER. I make that request, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

SEQUENTIAL REFERRAL OF S. 869

Mr. BAKER. Another sequential referral request, Mr. President, in respect to S. 869, which is entitled the "Export-Import Bank Act of 1945," and request that that measure be sequentially referred to the Committee on Foreign Relations for a period of not to exceed 30 calendar days for the purpose of considering section 205.

Mr. BYRD. Mr. President, there is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR STAR PRINT—S. 1429

Mr. BAKER. Mr. President, I now propose and I ask unanimous consent that S. 1429 be star printed to reflect the text which I now send to the desk.

Mr. BYRD. Mr. President, there is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, may I say to the minority leader that there are a number of items on today's Executive Calendar that are cleared for action by unanimous consent.

I refer specifically to those nominations beginning at the top of page 3 with Calendar Order 191, all of the nominations on page 3 including those in the Air Force, the nominations on page 4 in the Air Force and the Army, on page 5 in the Army and the Navy, page 6 in the Navy and the Marine Corps and the Department of Labor under new reports, as well as the nominations placed on the Secretary's desk in the Air Force and Navy on page 7.

Mr. President, may I inquire of the minority leader if he is prepared to consider all or any part of those nominations at this time?

Mr. BYRD. Mr. President, all of the foregoing nominations have been cleared on this side.

Mr. BAKER. I thank the minority leader.

EXECUTIVE SESSION.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering the nominations just identified.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the nomina-

tions be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

FEDERAL HOME LOAN BANK BOARD

Donald I. Hovde, of Wisconsin, to be a member of the Federal Home Loan Bank Board for the remainder of the term expiring June 30, 1985.

IN THE AIR FORCE

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. John J. Murphy, xxx-xx-xxxx FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. James E. Light, Jr., xxx-xx-xxxx xxx-... FR, U.S. Air Force.

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of chapter 34, 831, and 837, title 10, United States Code:

To be major general

Brig. Gen. Jerry W. Cochrane, xxx-xx-xxxx xxx-... FG, Air National Guard of the United States.

Brig. Gen. Myrle B. Langley, xxx-xx-xxxx xxx-... FG, Air National Guard of the United States.

Brig. Gen. Addison O. Logan, xxx-xx-xxxx xxx-... FG, Air National Guard of the United States.

To be major general

Brig. Gen. Alexander P. Macdonald, xxx-... xxx-xx-... FG, Air National Guard of the United States.

To be brigadier general

Col. Russell E. Allen, xxx-xx-xxxx FG, Air National Guard of the United States.

Col. Miles C. Durfey, xxx-xx-xxxx FG, Air National Guard of the United States.

Col. Albert J. Dye, xxx-xx-xxxx FG, Air National Guard of the United States.

Col. George A. Franzen, Jr., xxx-xx-xxxx xxx-... FG, Air National Guard of the United States.

Col. Raymond M. Leonard, Jr., xxx-xx-x... xxx-... FG, Air National Guard of the United States.

Col. Leo E. McFadden, xxx-xx-xxxx FG, Air National Guard of the United States.

Col. Donald L. Owens, xxx-xx-xxxx FG, Air National Guard of the United States.

Col. Richard M. Sanders, xxx-xx-xxxx FG, Air National Guard of the United States.

Col. Otha R. Smith, Jr., xxx-xx-xxxx FG, Air National Guard of the United States.

Col. Curtis G. Williams, xxx-xx-xxxx FG, Air National Guard of the United States.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Marion C. Ross, xxx-xx-xxxx (age 55), U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Charles P. Graham, xxx-xx-xxxx xxx-... U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. William J. Livsey, xxx-xx-xxxx, U.S. Army.

IN THE NAVY

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Joseph Metcalf III, xxx-xx-xxxx xxx-.../1110, U.S. Navy.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Donald S. Jones, xxx-xx-xxxx/1310. U.S. Navy.

IN THE MARINE CORPS

The following-named officer, under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. William R. Maloney, xxx-xx-xxxx, U.S. Marine Corps.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Bernard E. Trainor, xxx-xx-xxxx xxx-... U.S. Marine Corps.

DEPARTMENT OF LABOR

Janet L. Norwood, of Maryland, to be Commissioner of Labor Statistics, U.S. Department of Labor, for a term of four years (reappointment).

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, NAVY

Air Force nominations beginning John A. Almquist, Jr., and ending Ralph S. Smith, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 23, 1983.

Navy nominations beginning Stephen J. Bowdren, and ending Thomas A. Schultz, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 23, 1983.

Navy nominations beginning David A. Baran, and ending John A. Youngberg, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 24, 1983.

Mr. BAKER. I move to reconsider the vote by which the nominations were confirmed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

ORDER FOR THE RECORD TO REMAIN OPEN UNTIL 5 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent that the record of today's proceedings of the Senate remain open until 5 p.m. for the purpose of the insertion of statements and the introduction of bills, resolutions, et cetera.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTING PROCEDURE—STACKED VOTES

Mr. BAKER. Mr. President, I reiterate what I said earlier about stacking votes. I think we have become intoxicated by that practice. I indicated earlier that I do not intend to make such a request any more, and implicit in that is that I would not agree to such a request made by another Senator.

I suppose there are some exceptions to that. In the case of a dire emergency, I would not rule out the possibility of a delayed vote. But I think Members must understand that we are talking about stacking votes as we have this week, from Friday until Tuesday, or even from Monday until Tuesday.

Another example of a situation I would be willing to consider for the continuation of vote stacking might be, say, when the Senate is going to be in late and we are going to run through the dinner hour and it would be mutually advantageous to allow a time, perhaps an hour, when Members could feel free to go to dinner, or to fulfill commitments at the dinner hour. But I am not talking about that sort of delay of a vote for minutes or an hour or so. I am talking about stacking votes to occur on another day. That is what is getting us in trouble. That is what is producing a situation where Members feel that the Senate has turned into a Tuesday-to-Thursday club. It has not. I can assure

them that is not the intention of the leadership on either side.

Let me elaborate my previous statement a little by saying that I do not mean to be perhaps as hardnosed as I sounded. I would not object to those momentary accommodations that are necessary to allow for the exigencies of that particular day, but I have no intention, absent extraordinary circumstances fully discussed and after conferring with the minority leader, of stacking votes until another day. That, I think, is an invitation to delay, as we have seen today and we will see again on Monday.

Mr. President, while I have the opportunity, let me remark on a subject that is fast becoming my favorite complaint.

I believe I am right when I say that even now in June the Senate has not performed a single regular rollcall vote within the 15 minutes allowed under the standard operating practices of the Senate this year, not a one. I may be incorrect, but if I am, it is only by one or two rollcalls and I do not believe I am incorrect. I think that is right.

We have had one or two 15-minute votes, but they have been when we ordered a 10-minute rollcall vote and they were back to back, so to speak, that is, votes had been stacked to occur in sequence and Members were on the floor.

We have never had a 10-minute vote when we ordered one, but even then we would do well to make it within 15 minutes.

What I am saying is we have wasted hours upon hours, tens of hours in the Senate waiting for Senators to arrive on the floor to cast their vote.

I am not talking about Republicans or Democrats. It is about equal, I think. And I understand the difficulties of getting from here to the Hart Building which sometimes seems across a national boundary.

But I call to the attention of Members that it is necessary that we try to conduct those rollcall votes within the prescribed 15 minutes.

So from now on I urge Members to consider that when they hear the vote bell ring they have 15 minutes before that rollcall will close out, and they should not assume that the leadership on this side will wait for them.

I hope Fridays have not turned into my bad-mood days, but that I feel is a necessary adjunct to the previous remarks that I made about scheduling votes.

Mr. BYRD. Mr. President, I agree with the majority leader that there are times during a portion of the day's session when Members—perhaps on both sides—have to go to the White House or they have a dinner engagement close by and it really may expedite the final action of the Senate on a particular piece of legislation to stack some votes for an hour or so. Even on those occasions I think the verbiage of the vote-stacking agreement has to be very carefully worded. The majority leader and I are both working on this, so we will try to avoid any possible pitfalls in the future.

Second, I agree with the majority leader that votes should be 15 minutes. If we hear, of course, that an elevator is jammed or stopped, or something is beyond the control of a Senator, then I am sure the majority leader and I both will attempt to accommodate Members by holding up the vote for a short time.

But it is getting to the point where Members just feel that the vote is going to be held up for them and we have delayed announcement of a vote 7, 8, 10 minutes or more for Senators on my side and Senators on the other side, and unless the majority leader and I really mean what we say and state it now and deviate not from it except in emergency situations, our statements will not amount to a hill of beans.

It is not difficult for a Senator to leave his office—fortunately, I am close by and the majority leader is close by and we can get here easily for every vote. But I am sure that barring a breakdown of an elevator or some such, any Senator can travel from the furthermost part of the Hart Building here and walk and do it in 15 minutes if he starts when the bell rings. I feel certain of that.

I think the majority leader is right. I hope he will enforce that rule.

Mr. STENNIS. Mr. President, will the Senator let me make one statement?

Mr. BYRD. I would suggest that the majority leader and I write a letter to each Member and sign it and let it be known that this is a rule we are going to try to enforce.

Mr. BAKER. Mr. President, I welcome that offer and I certainly will join with the minority leader in such an effort.

Let me say one thing, and then I will yield to the distinguished Senator from Mississippi. I know something about how hard it is to get here sometimes with crowd delays and elevator problems and the like. But I have requested the Sergeant at Arms of the Senate to make sure the Capitol Police are equipped with walkie-talkies in the subway so that they can report to the floor unusual difficulties such as subway breakdowns or elevator breakdowns, and the like.

So if there is such an occurrence, then Members should let one of the police know, one of the uniformed police in the subway or in the three buildings know, so that we do know it here. But we are not going to wait just for fear that something like that is going to happen, and if you have got a dozen Senators stuck in an elevator or some place—and after we do a careful tally on how many Democrats and how many Republicans are stuck, we will decide whether it is an emergency. [Laughter.]

But in all seriousness, I welcome the offer of the minority leader, and I will join him in that letter with great relish.

I yield to the distinguished Senator from Mississippi.

Mr. STENNIS. Let me say this: The Senate has made a great step here in the resolve to mend the situation greatly with reference to delays, both the stacking of votes, and so forth, and that will make it easier on our leaders who have enough trouble already.

No. 2, another big step forward is that we have taken the telephone out from up here where the Presiding Officer is, and that is a great improvement.

I do not know who is entitled to that credit, but I want to applaud him. I think that will help. I expect it was my friend, the majority leader, and I thank him for that.

Mr. BAKER. The majority leader is standing mute.

Mr. President, I thank the Senator from Mississippi.

It is late now and we have exceeded the time extended for the transaction of routine morning business, and I am prepared to extend it again if any Senator seeks recognition, but I see no Senator rising for that purpose.

PROGRAM

Mr. BAKER. Mr. President, on Monday next, the Senate will convene, pursuant to an order of adjournment, at 12 noon.

After the recognition of the two leaders under the standing order, there will be a period for the transaction of routine morning business, for not more than 1 hour.

Under the order previously entered, the Senate, on Monday, will proceed to the consideration of the cable TV bill, so-called. It is anticipated that most of the day, perhaps all of the day, will be devoted to that measure.

Rollcall votes ordered on that day will be stacked to occur on Tuesday, under the order previously entered.

The Senate will come in at 9:30 a.m. on Tuesday, return to the consideration of the cable TV bill at 10 a.m., and rollcall votes, as they may have been ordered on Monday, will begin 15 minutes after the Senate returns to the consideration of that measure, which would make it 10:15 a.m.

After that list of rollcall votes has been dispensed with and/or after the bill has been disposed of, the Senate will resume consideration of the supplemental appropriations bill.

At 12 noon on Tuesday, the Senate will recess for a period of 2 hours, to

accommodate the requirement of Senators to attend caucuses of their respective parties away from the floor of the Senate.

The Senate will continue voting on any rollcalls that have been ordered to the supplemental appropriations bill beginning at 2 p.m. and will continue the consideration of the supplemental appropriations bill thereafter. It is hoped that the supplemental appropriations bill be finished on Tuesday.

ADJOURNMENT UNTIL MONDAY, JUNE 13, 1983

Mr. BAKER. Mr. President, I move, in accordance with the order previously entered, that the Senate now stand in adjournment until the hour of 12 noon on Monday next.

The motion was agreed to; and at 4:17 p.m. the Senate adjourned until Monday, June 13, 1983, at 12 noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 10, 1983:

Federal Home Loan Bank Board

Donald I. Hovde, of Wisconsin, to be a member of the Federal Home Loan Bank Board for the remainder of the term expiring June 30, 1985, vice Richard T. Pratt, resigned.

Department of Labor

Janet L. Norwood, of Maryland, to be Commissioner of Labor Statistics, U.S. Department of Labor, for a term of 4 years (reappointment).

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

Air Force

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. John J. Murphy, [redacted] FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. James E. Light, Jr., [redacted] FR, U.S. Air Force.

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of chapter 34, 831, and 837, title 10, United States Code:

To be major general

Brig. Gen. Jerry W. Cochrane, [redacted] FG, Air National Guard of the United States.

Brig. Gen. Myrle B. Langley, [redacted] FG, Air National Guard of the United States.

Brig. Gen. Addison O. Logan, [redacted] FG, Air National Guard of the United States.

Brig. Gen. Alexander P. Macdonald, [redacted] FG, Air National Guard of the United States.

To be brigadier general

Col. Russell E. Allen, [redacted] FG, Air National Guard of the United States.

Col. Miles C. Durfey, [redacted] FG, Air National Guard of the United States.

Col. Albert J. Dye, [redacted] FG, Air National Guard of the United States.

Col. George A. Franzen, Jr., [redacted] FG, Air National Guard of the United States.

Col. Raymond M. Leonard, Jr., [redacted] FG, Air National Guard of the United States.

Col. Leo E. McFadden, [redacted] FG, Air National Guard of the United States.

Col. Donald L. Owens, [redacted] FG, Air National Guard of the United States.

Col. Richard M. Sanders, [redacted] FG, Air National Guard of the United States.

Col. Otha R. Smith, Jr. [redacted] FG, Air National Guard of the United States.

Col. Curtis G. Williams, [redacted] FG, Air National Guard of the United States.

In the Army

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Marion C. Ross, [redacted] (age 55), U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Charles P. Graham, [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. William J. Livsey, [redacted], U.S. Army.

In the Navy

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Joseph Metcalf III, [redacted]/1110, U.S. Navy.

The following named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Donald S. Jones, [redacted]/1310, U.S. Navy.

In the Marine Corps

The following-named officer, under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. William R. Maloney, [redacted], U.S. Marine Corps.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Bernard E. Trainor, [redacted] U.S. Marine Corps.

In the Air Force

Air Force nominations beginning John A. Almquist, Jr., and ending Ralph S. Smith, Jr., which nominations were received by the Senate and appeared in the Congressional Record of May 23, 1983.

In the Navy

Navy nominations beginning Stephen J. Bowdren, and ending Thomas A. Schultz, which nominations were received by the Senate and appeared in the Congressional Record of May 23, 1983.

Navy nominations beginning David A. Baran, and ending John A. Youngberg, which nominations were received by the Senate and appeared in the Congressional Record of May 24, 1983.